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1855

THE
C H A R T E R
Granted by their Majesties
King W I L L I A M
AND
Queen M A R Y,
TO THE
I N H A B I T A N T S
OF THE
P R O V I N C E
OF THE
Massachusetts-Bay
IN
N E W - E N G L A N D .

13.4273.3

3000

B O S T O N , in N E W - E N G L A N D :

Printed by S. KEELAND, by Order of His Excellency the
GOVERNOR, COUNCIL and House of REPRESENTATIVES.
M, DCC, LIX.

Thos Parker

Y¹⁸⁸⁰ 2779

ENT 70

NOTES TO VTD

The CHARTER of the Province of the *Massachusetts-Bay in New-England.*



WILLIAM and MARY, by the Grace of GOD, King and Queen of *England, Scotland, France and Ireland*, Defenders of the Faith, &c. To all to whom these Presents shall come, Greeting. Whereas his late Majesty King *James* the first, Our Royal Predecessor, by his Letters Patents under the Great Seal of *England*, bearing Date at *Westminster* the third Day of *November*, in the eighteenth Year of his Reign, did give and grant unto the Council established at *Plymouth* in the County of *Devon*, for the Planting, Ruling, Ordering and Governing of *New-England* in *America*, and to their Successors and Assigns, all that Part of *America* lying and being in Breadth from forty Degrees of Northerly Latitude, from the Equinoctial Line to the forty eighth Degree of the said Northerly Latitude, inclusively, and in Length of and within all the Breadth aforesaid throughout all the Main Lands from Sea to Sea, together also with all the firm Lands, Soils, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals, Precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Priviledges, Franchises and Preheminenances, both within the said Tract of Land, upon the Main, and also within the Islands and Seas adjoining, Provided always, that the said Lands, Islands, or any the Premises by the said Letters Patents intended or meant to be granted, were not then actually possessed or inhabited by any other Christian Prince or State, or within the Bounds Limits or Territories of the Southern Colony, then before granted by the said late King *James* the first, to be planted by divers of his Subjects in the South Parts: To have and to hold, possess and enjoy, all and singular the aforesaid Continent Lands, Territories, Islands, Hereditaments, and Precincts; Seas, Waters, Fishings, with all and all manner of their Commodities, Royalties, Liberties, Preheminenances and Profits that should from thenceforth arise from thence, with all and singular their Appurtenances, and every Part and Parcel thereof, unto the said Council; and their Successors and Assigns for ever, to the sole and proper Use and Benefit of the said Council, and their Successors and Assigns forever: To be holden of his said late Majesty King *James* the first, his Heirs and Successors, as of his Manner of *East Greenwich* in the County of *Kent*, in free and common Sockage, and not in *Capite*, or by Knights Service: Yielding and Paying therefore to the said late King, his Heirs and Successors, the fifth Part of the Oar of Gold and Silver, which should from Time to Time, and at all Times then after happen to be found; gotten, had and obtained, in, at, or within any of the said Lands; Limits, Territories or Precincts, or in, or within any Part or Parcel thereof, for or in Respect of all and all manner of Duties, Demands and Services whatsoever, to be done, made or paid to the said late King *James* the first, his Heirs and Successors (as in and by the said Letters Patents, amongst sundry other Clauses, Powers, Priviledges and Grants therein contained, more at large appeareth:) and whereas the said Council established at *Plymouth* in the County of *Devon*, for the Planting, Ruling, Ordering and Governing of *New-England* in *America*, did by their Deed indented under their Common Seal, bearing Date the Nineteenth Day of *March*, in the third Year of the Reign of Our Royal Grand-Father King *Charles* the first, of ever blessed Memory, give, grant, bargain, sell, enfeoff, alien and confirm to Sir *Henry Roswell*, Sir *John Young*, Knights, *Thomas Southcott*, *John Humphreys*, *John Endicott*, and *Simon Whetcombe*, their Heirs and Assigns, and their Associates for ever, all that Part of *New-England* in *America* aforesaid, which lies and extends between a great River there, commonly called *Manomack* alias *Merimack*, and a certain other River there called *Charles River*, being in a Bottom of a certain Bay there commonly called *Massachusetts*, alias *Mattachusetts*, alias *Massatusett-Bay*, and also all and singular those Lands and Hereditaments whatsoever, lying within the Space of three *English* Miles on the South Part

Recital
That King
James I.
granted to the
Council at
Plymouth in
Devon,

All that Part
of *America*
from 40 to 48
Degrees Nor.
Latitude.

To hold in
Fee.

Paying the
fifth Part of
the Oar of
Gold and Sil-
ver.

That the
Council at
Plymouth
granted to
Sir *Henry Ros-*
well & others.

Part of *New-*
England by
certain
Bounds.

of

To hold in
Fee.

paying &c.

That K. James
I. by Letters
Patents con-
firm'd to Sir
Henry Roswell,
and others,

all those
Lands before
granted to
them by the
Council at
Plymouth.

of the said *Charles River*, or of any and every Part thereof; and also all and singular the Lands and Hereditaments whatsoever, lying and being within the Space of three *English Miles* to the Southward of the southernmost Part of the said Bay called *Massachusetts*, alias *Mattachusetts*, alias *Massachusetts-Bay*; and also all those Lands and Hereditaments whatsoever which lie and be within the Space of three *English Miles* to the Northward of the said River called *Manomack* alias *Merimack*, or to the Northward of any and every Part thereof, and all Lands and Hereditaments whatsoever lying within the Limits aforesaid North and South in Latitude, and in Breadth, and in Length, and Longitude, of and within all the Breadth aforesaid throughout the main Lands there, from the *Atlantick* and Western Sea and Ocean on the East Part to the South Sea on the West Part, and all Lands and Grounds, Place and Places, Soil, Woods and Wood-Grounds, Havens, Ports, Rivers, Waters, Fishings and Hereditaments whatsoever, lying within the said Bounds and Limits, and every Part and Parcel thereof; and also all Islands lying in *America* aforesaid, in the said Seas, or either of them on the Western or Eastern Coasts or Parts of the said Tracts of Land, by the said Indenture mentioned to be given and granted, bargained, sold, enfeoffed, alien'd and confirmed, or any of them; and also all Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals whatsoever in the said Lands and Premises, or any Part thereof, and all Jurisdictions, Rights, Royalties, Liberties, Freedoms, Immunities, Privileges, Franchises, Preheminences and Commodities whatsoever, which they the said Council established at *Plymouth* in the County of *Devon*, for the Planting, Ruling, Ordering and Governing of *New-England* in *America*, then had, or might use, exercise or enjoy, in or within the said Lands and Premises, by the same Indenture mentioned to be given, granted, bargained, sold, enfeoffed and confirmed, in or within any Part or Parcel thereof: To have and to hold the said Part of *New-England* in *America*, which lies and extends, and is abutted as aforesaid, and every Part and Parcel thereof; and all the said Islands, Rivers, Ports, Havens, Waters, Fishings, Mines, Minerals, Jurisdictions, Franchises, Royalties, Liberties, Privileges, Commodities, Hereditaments and Premises whatsoever, with the Appurtenances, unto the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Southcott*, *John Humphreys*, *John Endicott*, and *Simon Whetcombe*, their Heirs and Assigns and their Associates for ever, to the only proper and absolute Use and Behoof of the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Southcott*, *John Humphreys*, *John Endicott*, and *Simon Whetcombe*, their Heirs and Assigns and their Associates forevermore: To be holden of our said Royal Grand father King *Charles* the First, his Heirs and Successors, as of his Mannor of *East-Greenwich* in the County of *Kent*, in free and common Sockage, and not in *Capite* nor by Knights Service, yielding and paying therefore unto Our said Royal Grand-father, his Heirs and Successors, the fifth Part of the Oar of Gold and Silver which should from Time to Time, and at all Times hereafter happen to be found, gotten, had and obtained in any of the said Lands within the said Limits, or in or within any Part thereof, for and in Satisfaction of all Manner of Duties, Demands and Services whatsoever, to be done, made or paid to Our said Royal Grand-father, his Heirs or Successors (as in and by the said recited Indenture may more at large appear. And *Whereas* Our said Royal Grandfather in and by his Letters Patents under the Great Seal of *England*, bearing Date at *Westminster* the fourth Day of *March*, in the fourth Year of his Reign, for the Consideration therein mentioned, did grant and confirm unto the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Southcott*, *John Humphreys*, *John Endicott*, and *Simon Whetcombe*, and to their Associates after named, viz. Sir *Richard Saltonstall*, Knight, *Isaac Johnson*, *Samuel Aldersey*, *John Ven*, *Matthew Craddock*, *George Harwood*, *Increase Nowell*, *Richard Perry*, *Richard Bellingham*, *Nathaniel Wright*, *Samuel Vassall*, *Theophilus Eaton*, *Thomas Goffe*, *Thomas Adams*, *John Brown*, *Samuel Brown*, *Thomas Hutchins*, *William Vassall*, *William Pincheon*, and *George Foxcroft*, their Heirs and Assigns, all the said Part of *New-England* in *America*, lying and extending between the Bounds and Limits in the said Indenture expressed, and all Lands and Grounds, Place and Places, Soils, Woods and Wood Grounds, Havens, Ports, Rivers, Waters, Mines, Minerals, Jurisdictions, Rights, Royalties, Liberties, Freedoms, Immunities, Privileges, Franchises, Preheminences and Hereditaments whatsoever; bargained, sold, enfeoffed and confirmed,

firmed, or mentioned or intended to be given, granted, bargained, sold, en-
 feoffed, aliened and confirmed to them the said Sir *Henry Roswell*, Sir *John Young*,
Thomas Southcott, *John Humphreys*, *John Endicott*, and *Simon Whetcombe*; their
 Heirs and Assigns, and to their Associates for ever, by the said recited Inden-
 ture : To have and to hold the said Part of *New England in America*, and other
 the Premises thereby mentioned to be granted and confirmed, and every Part
 and Parcel thereof, with the Appurtenances, to the said Sir *Henry Roswell*, Sir
John Young, Sir *Richard Saltonstall*, *Thomas Southcott*, *John Humphreys*, *John*
Endicott, *Simon Whetcombe*, *Isaac Johnson*, *Samuel Aldersey*, *John Ven*, *Matthew*
Craddock, *George Harwood*, *Increase Nowell*, *Richard Perry*, *Richard Bellingham*,
Nathanael Wright, *Samuel Vassall*, *Theophilus Eaton*, *Thomas Goffe*, *Thomas Adams*,
John Brown, *Samuel Brown*, *Thomas Hutchins*, *William Vassall*, *William Pincheon*,
 and *George Foxcroft*, their Heirs and Assigns for ever, to their only proper and
 absolute Use and Behoof for evermore : To be holden of our said Royal Grand-
 father, his Heirs and Successors, as of his Mannor of *East Greenwich* aforesaid, in
 free and common Sockage, and not in *Capite* nor by Knights Service ; and also
 yielding and paying therefore to Our said Royal Grand-father, his Heirs and Suc-
 cessors, the fifth Part only of all the Oar of Gold and Silver which from Time to
 Time and at all Times after should be there gotten, had or obtained, for all Services,
 Exactions and Demands whatsoever, according to the Tenor and Reservation
 in the said recited Indenture expressed. And further Our said Royal Grand-
 father by the said Letters Patents did give and grant unto the said Sir *Henry*
Roswell, Sir *John Young*, Sir *Richard Saltonstall*, *Thomas Southcott*, *John Hum-*
phreys, *John Endicott*, *Simon Whetcombe*, *Isaac Johnson*, *Samuel Aldersey*, *John Ven*,
Matthew Craddock, *George Harwood*, *Increase Nowell*, *Richard Perry*, *Richard*
Bellingham, *Nathanael Wright*, *Samuel Vassall*, *Theophilus Eaton*, *Thomas Goffe*,
Thomas Adams, *John Brown*, *Samuel Brown*, *Thomas Hutchins*, *William Vassall*,
William Pincheon, and *George Foxcroft*, their Heirs and Assigns, all that said Part of
New-England in America, which lies and extends between a great River common-
 ly called *Monomack*, alias *Merimack-River*, and a certain other River there called
Charles River, being in the bottom of a certain Bay there commonly called *Massa-*
chusetts, alias *Mattachusetts*, alias *Massachusetts-Bay* ; and also all and singular those
 Lands & Hereditaments whatsoever, lying within the Space of three *English* Miles,
 on the South Part of the said River called *Charles River*, or of any or every
 Part thereof ; and also all and singular the Lands and Hereditaments whatso-
 ever, lying and being within the Space of three *English* Miles to the Southward
 of the southermost Part of the said Bay called *Massachusetts*, alias *Mattachusetts*,
 alias *Massachusetts-Bay* ; and also all those Lands and Hereditaments whatsoever,
 which lie and be within the Space of three *English* Miles to the Northward of
 the said River called *Monomack* alias *Merimack*, or to the Northward of any and
 every Part thereof, and all Lands and Hereditaments whatsoever lying within
 the Limits aforesaid, North and South in Latitude, and Breadth, and in Length
 and Longitude, of and within all the breadth aforesaid throughout the Main Lands
 there, from the *Atlantick* or Western Sea and Ocean on the East Part, to the South
 Sea on the West Part ; and all Lands and Grounds, Place and Places, Soils, Woods
 and Wood-Lands, Havens, Ports, Rivers, Waters and Hereditaments whatso-
 ever, lying within the said Bounds and Limits, and every Part and Parcel thereof ;
 and also all Islands in *America* aforesaid, in the said Seas, or either of them on the
 Western or Eastern Coasts or Parts of the said Tracts of Lands, thereby men-
 tioned to be given and granted, or any of them ; and all Mines and Minerals,
 as well Royal Mines of Gold and Silver, as other Mines and Minerals whatso-
 ever in the said Lands and Premises, or any Part thereof ; and free Liberty of
 Fishing in or within any of the Rivers and Waters within the Bounds and Li-
 mits aforesaid, and the Seas thereunto adjoining ; and of all Fishes, Royal Fishes,
 Whales, Balene, Sturgeon, and other Fishes of what Kind or Nature soever, that
 should at any Time thereafter be taken in or within the said Seas or Waters,
 or any of them, by the said Sir *Henry Roswell*, Sir *John Young*, Sir *Richard Sal-*
tonstall, *Thomas Southcott*, *John Humphreys*, *John Endicott*, *Simon Whetcombe*, *Isaac*
Johnson, *Samuel Aldersey*, *John Ven*, *Matthew Craddock*, *George Harwood*, *Increase*
Nowell, *Richard Perry*, *Richard Bellingham*, *Nathanael Wright*, *Samuel Vassall*,
Theophilus Eaton, *Thomas Goffe*, *Thomas Adams*, *John Brown*, *Samuel Brown*,
Thomas Hutchins, *William Vassall*, *William Pincheon*, and *George Foxcroft*, their
 Heirs

by certain
 Bounds and
 Descriptions.

Provided they
do not in-
trench on any
former Possessi-
ons or Rights.

To hold in
Fee,

paying, &c.

And made
them a Body
politick.

Whereupon
they settled a
Colony and it
became very
populous.

Heirs or Assigns, or by any other Person or Persons whatsoever there inhabiting, by them or any of them to be appointed to fish therein. *Provided* always, that if the said Lands, Islands, or any the Premises before mentioned, and by the said Letters Patents last mentioned, intended and meant to be granted, were at the time of granting of the said former Letters Patents, dated the third Day of November, in the Eighteenth Year of the Reign of his late Majesty King James the first, actually possessed or inhabited by any other Christian Prince or State, or were within the Bounds, Limits or Territories of the said southern Colony then before granted by the said King, to be planted by divers of his loving Subjects in the South Parts of *America*; That then the said Grant of Our said Royal Grand-father should not extend to any such Parts or Parcels thereof so formerly inhabited, or lying within the Bounds of the Southern Plantation as aforesaid. But as to those Parts or Parcels so possessed or inhabited by any such Christian Prince or State, or being within the Boundaries aforesaid, should be utterly void: To have and to hold, possess and enjoy the said Parts of *New-England* in *America*, which lie, extend, and are abutted as aforesaid, and every Part and Parcel thereof; and all the Islands, Rivers, Ports, Havens, Waters, Fishings, Fishes, Mines, Minerals, Jurisdictions, Franchises, Royalties, Liberties, Privileges, Commodities, and Premises whatsoever, with the Appurtenances, unto the said Sir Henry Roswell, Sir John Young, Sir Richard Saltonstall, Thomas Southcott, John Humphreys, John Endicott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathanael Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon, and George Foxcroft, their Heirs and Assigns for ever: To the only proper and absolute Use and Behoof of the said Sir Henry Roswell, Sir John Young, Sir Richard Saltonstall, Thomas Southcott, John Humphreys, John Endicott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathanael Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon, and George Foxcroft, their Heirs and Assigns for evermore: To be holden of Our said Royal Grand-father, his Heirs and Successors, as of his Mannor of *East-Greenwich* in the County of *Kent*, within the Realm of *England*, in free and common Sockage, and not in *Capite* nor by Knights Service: And also yielding and paying therefore to Our said Royal Grandfather, his Heirs and Successors, the fifth Part only of all the Oar of Gold and Silver which from Time to Time and at all Times hereafter, should be gotten, had or obtained, for all Services, Exactions and Demands whatsoever. *Provided* always, and His Majesties express Will and meaning was, that only one fifth Part of all the Gold and Silver Oar abovementioned in the whole, and no more, should be answered, reserved or payable unto Our said Royal Grandfather, his Heirs and Successors, by Colour or Vertue of the said last mentioned Letters Patents, the double Reservations or Recitals aforesaid, or any Thing therein contained notwithstanding. And to the End that the Affairs and Business which from Time to Time should happen and arise concerning the said Lands, and the Plantations of the same, might be the better managed and ordered, and for the good Government thereof, Our said Royal Grandfather King Charles the first, did by his said Letters Patents create and make the said Sir Henry Roswell, Sir John Young, Sir Richard Saltonstall, Thomas Southcott, John Humphreys, John Endicott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathanael Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon, and George Foxcroft, and all such others as should thereafter be admitted and made free of the Company and Society therein after mentioned, one Body corporate and politique in Fact and Name, by the Name of the Governour and Company of the *Massachusetts-Bay* in *New-England*, and did grant unto them and their Successors divers Powers, Liberties and Priviledges, as in and by the said Letters Patents may more fully and at large appear. And Whereas the said Governour and Company of the *Massachusetts Bay* in *New-England*, by Vertue of the said Letters Patents did settle a Colony of the *English* in the said Parts of *America*, and

and divers good Subjects of this Kingdom, encouraged and invited by the said Letters Patents, did Transport themselves and their Effects into the same, whereby the said Plantation did become very populous, and divers Counties, Towns and Places, were created, erected, made, set forth, or designed within the said Parts of *America*, by the said Governour and Company for the Time being : And whereas in the Term of the *Holy Trinity*, in the thirty sixth Year of the Reign of our dearest Uncle King *Charles* the Second, a Judgment was given in Our Court of *Chancery* then sitting at *Winchester*, upon a Writ of *Scire facias*, brought and prosecuted in the said Court against the Governour and Company of the *Massachusetts-Bay* in *New-England*, that the said Letters Patents of Our said Royal Grand Father King *Charles* the First, bearing Date at *Westminster* the 4th Day of *March*, in the fourth Year of his Reign, made and granted to the said Governour and Company of the *Massachusetts-Bay* in *New England*, and the Enrollment of the same, should be cancelled vacated and annihilated, and should be brought into the said Court to be cancelled, (as in and by the said Judgment remaining upon Record in the said Court doth more at large appear :) And whereas several Persons employed as Agents in behalf of Our said Colony of the *Massachusetts-Bay* in *New-England*, have made their humble Application unto us, That We would be graciously pleased by Our Royal Charter to incorporate Our Subjects in Our said Colony, and to grant and confirm unto them such Powers, Priviledges and Franchizes as in Our Royal Wisdom, should be thought most conducing to Our Interest and Service, and to the Welfare and happy State of Our Subjects in *New-England*: And We being graciously pleased to gratify Our said Subjects; and also to the End Our good Subjects within Our Colony of *New-Plymouth* in *New England* aforesaid, may be brought under such a Form of Government, as may put them in a better Condition of Defence, and considering as well the granting unto them as unto Our Subjects in the said Colony of the *Massachusetts-Bay* Our Royal Charter, with reasonable Powers and Priviledges, will much tend not only to the Safety, but to the flourishing Estate of Our Subjects in the said Parts of *New-England*, and also to the advancing of the Ends for which the said Plantations were at first encouraged; of Our special Grace, certain Knowledge, and meer Motion, have willed and ordained, and We do by these Presents for Us, Our Heirs and Successors Will and Ordain, That the Territories and Colonies commonly called or known by the Names of the Colony of the *Massachusetts-Bay*, and Colony of *New Plymouth*, the Province of *Main*, the Territory called *Accada*, or *Nova-Scotia*; and all that Tract of Land lying between the said Territories of *Nova-Scotia*, and the said Province of *Main*, be erected, united and incorporated: And We do by these Presents unite, erect and incorporate the same into one Real Province by the Name of our Province of the *Massachusetts-Bay* in *New-England*; and of Our especial Grace, certain Knowledge, and meer Motion, We have given and granted, and by these Presents, for Us, Our Heirs and Successors, do give and grant unto Our good Subjects, the Inhabitants of Our said Province or Territory of the *Massachusetts-Bay*, and their Successors, all that Part of *New-England* in *America*, lying and extending from the great River commonly called *Monomack*, alias *Merimack*, on the North Part, and from three Miles Northward of the said River to the *Atlantick* or Western Sea or Ocean on the South Part, and all the Lands and Hereditaments whatsoever lying within the Limits aforesaid, and extending as far as the outermost Points or Promontories of Land called *Cape-Cod*, and *Cape-Malabar* North and South, and in Latitude, Breadth, and in Length and Longitude, of and within all the Breadth and Compass aforesaid throughout the main Land there, from the said *Atlantick* or Western Sea, and Ocean on the East Part towards the South Sea, or Westward as far as our Colonies of *Rhode-Island*, *Connecticut*; and the *Narragansett Country*: And also all that Part and Portion of main Land, beginning at the Entrance of *Piscataway Harbour*, and so to pass up the same into the River of *Newichwannock*, and through the same into the furthest Head thereof, and from thence North-Westward, till one Hundred and twenty Miles be finished, and from *Piscataway Harbour* Mouth aforesaid North-Eastward along the Sea Coast to *Sagadebock*, and from the Period of one Hundred and twenty Miles aforesaid to cross over Land to the one Hundred and twenty Miles before reckoned up into the Land from *Piscataway Harbour* through *Newichwannock River*, and

That in 1684 in the Court of Chancery a Judgment was given that those Letters Patents should be cancelled vacated and annihilated. and should be brought into Court to be cancelled.

The Agents of that Colony Petitioned to be reincorporated.

K. William & Q. Mary unite the *Massachusetts*, *New Plymouth* and the Province of *Main* & *Nova-Scotia* &c. into one real Province.

And grant to the Inhabitants all those Lands herein bounded and described.

To hold in
Fee.

Paying, &c.

All Lands,
Heredita-
ments, &c.
formerly
granted to any
Town, Col-
lege, or School
of Learning,
confirm'd.

A saving for
Samuel Allen's
Claim.

Grants or
Conveyances
not prejudiced
for want of
Form.
And ordain
that there
shall be a Go-
vernour, Lieut-
Governour and
Secretary ap-
pointed by the
King.

Eight and
twenty Coun-
cellors to be
chosen as
hereafter is
express'd.

The Names
of the first
Councillors
or Assistants.

and also the North Half of the Isles of *Schoals*, together with the Isles of *Capawock*, and *Nantuckett* near *Cape-Cod* aforesaid, and also the Lands and Hereditaments lying and being in the Country or Territory commonly called *Accada*, or *Nova-Scotia*, and all those Lands and Hereditaments lying and extending between the said Country or Territory of *Nova-Scotia*, and the said River of *Sagadahock* or any Part thereof; and all Lands, Grounds, Places, Soils, Woods and Wood-Grounds, Havens, Ports, Rivers, Waters, and other Hereditaments and Premises whatsoever, lying within the said Bounds and Limits aforesaid, and every Part and Parcel thereof: And also all Islands and Islets lying within ten Leagues directly opposite to the main Land within the said Bounds: And all Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals whatsoever in the said Lands and Premises, or any Part thereof. *To have and to hold*, the said Territories, Tracts, Countries, Lands, Hereditaments, and all and singular other the Premises, with their and every of their Appurtenants to our said Subjects the Inhabitants of our said Province of the *Massachusetts-Bay* in *New-England*, and their Successors to their only proper Use and Behoof for evermore, *To be holden* of Us, our Heirs and Successors, as of our Mannor of *East-Greenwich*, in the County of *Kent*, by Fealty only in free and common Sockage: Yielding and paying therefore yearly to Us, Our Heirs and Successors, the fifth Part of all Gold and Silver Oar, and Precious Stones which shall from time to time, and at all Times hereafter, happen to be found, gotten had and obtained in any of the said Lands and Premises, or within any Part thereof: *Provided nevertheless*, and we do for Us, Our Heirs and Successors grant and ordain, that all and every such Lands, Tenements and Hereditaments, and all other Estates, which any Person or Persons, or Bodies Politick or Corporate, Towns, Villages, Colleges or Schools, do hold and enjoy, or ought to hold and enjoy, within the Bounds aforesaid, by or under any Grant or Estate duly made or granted by any General Court formerly held, or by Virtue of the Letters Patents herein before recited, or by any other Lawful Right or Title whatsoever, shall be by such Person and Persons, Bodies Politick and Corporate, Towns, Villages, Colleges, or Schools, their respective Heirs Successors and Assigns for ever, hereafter held and enjoyed, according to the Purport and Intent of such respective Grant, under and subject nevertheless to the Rents and Services thereby reserved or made payable, any Matter or Thing whatsoever to the contrary notwithstanding. *And provided also*, That nothing herein contained, shall extend, or be understood or taken, to impeach or prejudice any Right, Title, Interest or Demand, which *Samuel Allen* of *London*, Merchant, claiming from and under *John Mason*, Esq; deceased, or any other Person or Persons, hath or have, or claimeth to have, hold or enjoy, of, into, or out of any Part or Parts of the Premises, situate within the Limits above mentioned: But that the said *Samuel Allen*, and all and every such Person and Persons, may and shall have, hold and enjoy the same in such Manner (and no other than) as if these Presents had not been had or made. It being our further Will and Pleasure, That no Grants or Conveyances of any Lands, Tenements or Hereditaments to any Towns, Colleges, Schools of Learning, or to any private Person or Persons, shall be judged or taken, to be avoided or prejudiced, for, or by Reason of any want or defect of Form, but that the same stand and remain in force, and be maintained, adjudged, and have effect, in the same Manner as the same should or ought before the Time of the said recited Judgment, according to the Laws and Rules then and there usually practised and allowed. *And* we do further, for Us, Our Heirs and Successors, will, establish, and ordain, That from henceforth for ever there shall be one Governour; one Lieutenant or Deputy-Governour; and one Secretary of Our said Province or Territory, to be from time to time Appointed and Commissionated by Us, Our Heirs and Successors; and eight and twenty Assistants, or Councillors, to be advising and assisting to the Governour of Our said Province or Territory for the Time being, as by these Presents is hereafter directed and appointed: Which said Councillors or Assistants are to be constituted, elected and chosen in such Form and Manner as hereafter in these Presents is expressed. *And* for the better Execution of Our Royal Pleasure and Grant in this behalf, We do by these Presents, for Us, Our Heirs and Successors, nominate, ordain, make and constitute Our trusty and well beloved *Simon Broadstreet*, *John Richards*, *Nathanael*

Nathanael Saltonstall, Wait Winthrop, John Phillips, James Russell, Samuel Sewall, Samuel Appleton, Bartholomew Gidney, John Harthorn, Eliska Hutchinson, Robert Pike, Jonathan Corwin, John Jolliffe, Aam Winthrop, Richard Middlecot, John Foster, Peter Serjeant, John Lynde, Samuel Heyman, Stephen Mason, Thomas Hinkley, William Bradford, John Walley, Barnabas Lotbrop, Job Alcot, Samuel, Daniel, and Silvanus Davis, Esqrs; the first and present Councillors or Assistants of Our said Province; to continue in their said respective Offices of Trusts of Councillors or Assistants until the last *Wednesday* in *May*, which shall be in the Year of Our Lord, One Thousand six Hundred ninety and three, and until other Councillors or Assistants shall be chosen and appointed in their Stead, in such Manner as in these Presents is expressed. And we do further by these Presents constitute and appoint our trusty and well-beloved *Isaac Addington*, Esq; to be Our first and present Secretary of Our said Province, during Our Pleasure. And our Will and Pleasure is, That the Governour of Our said Province for the time being, shall have Authority, from time to time, at his Discretion, to assemble and call together the Councillors or Assistants, of Our said Province for the time being: And that the said Governour, with the said Assistants or Councillors, or seven of them at the least, shall and may from time to time hold and keep a Council for the ordering and directing the Affairs of Our said Province. And further, We will, and by these Presents for Us, Our Heirs and Successors, do ordain and grant, that there shall and may be convened, held and kept by the Governour for the time being, upon every last *Wednesday* in the Month of *May*, every Year, for ever, and at all such other times as the Governour of Our said Province shall think fit and appoint, a Great and General Court or Assembly; which said Great and General Court or Assembly shall consist of the Governour and Council or Assistants for the time being; and of such Freeholders of Our said Province or Territory as shall be from time to time elected or deputed by the major Part of the Freeholders, and other Inhabitants of the respective Towns or Places who shall be present at such Elections; each of the said Towns and Places being hereby empowered to elect and depute two Persons and no more to serve for and represent them respectively in the said Great and General Court or Assembly. To which Great and General Court or Assembly to be held as aforesaid, We do hereby, for Us, Our Heirs and Successors, give and grant full Power and Authority from time to time to direct, appoint and declare what Number each Counry, Town and Place shall elect and depute to serve for and represent them respectively in the said Great and General Court or Assembly: *Provided always*, That no Freeholder, or other Person, shall have a Vote in the Election of Members to serve in any Great and General Court or Assembly to be held as aforesaid, who at the time of such Election shall not have an Estate of Freehold in Land within Our said Province or Territory, to the Value of *Forty Shillings per Annum* at the least; or other Estate to the Value of *Forty Pounds Sterling*: And that every Person who shall be so elected, shall, before he sit or act in the said Great and General Court or Assembly, take the Oaths mentioned in an *Act of Parliament* made in the first Year of Our Reign, Intituled, *An Act for abrogating of the Oaths of Allegiance and Supremacy, and appointing other Oaths*, and thereby appointed to be taken instead of the Oaths of Allegiance and Supremacy: And shall make, repeat and subscribe the Declaration mentioned in the said Act, before the Governour or Lieutenant or Deputy Governour, or any two of the Assistants for the time being, who shall be thereunto authorized and appointed by Our said Governour. And that the Governour for the time being shall have full Power and Authority from time to time, as he shall judge necessary, to Adjourn, Prorogue and Dissolve all Great and General Courts or Assemblies met and conven'd as aforesaid. And Our Will and Pleasure is, and we do hereby, for Us, Our Heirs and Successors, grant, establish and ordain, that yearly, once in every Year for ever hereafter, the aforesaid Number of eight and twenty Councillors or Assistants shall be by the General Court or Assembly newly chosen; *That is to say*, Eighteen at least of the Inhabitants of, or Proprietors of Lands within the Territory formerly called the Colony of the *Massachusetts-Bay*; and four at the least of the Inhabitants of, or Proprietors of Lands within the Territory formerly called *New-Plymouth*; and three at the least of the Inhabitants of, or Proprietors of Land within the Territory formerly called the *Province of Main*; and One at the least of the Inhabitants of, or Proprietors of Land within the

To continue until *May*, 1693, and until Others are chosen.

Secretary appointed. The Governor may assemble the Councillors and with/even hold a Council.

A General Court to be held the last *Wednesday* of *May* annually &c.

To consist of the Governor Council and such Freeholders as shall be elected to represent the respective Towns. Each Town may elect two.

Qualification of the Electors

Oaths to be taken &c. by the Representatives.

The Governor to Adjourn, Prorogue and Dissolve the General Court

The Councillors to be chosen yearly, and their Qualification.

To be sup-
plied upon
Occasion.

Judges, She-
riffs, Justices,
to be appoint-
ed.

Governor
Lieutenant
Governor,
Councillors &
other Officers
to take the
Oaths, &c.

Before whom.

Territory lying between the River of *Sagadehock* and *Nova Scotia*. And that the said Councillors or Assistants or any of them, shall or may at any time hereafter, be removed or displaced from their respective Places or Trust of Councillors or Assistants by any Great or General Court or Assembly; and that if any of the said Councillors or Assistants shall happen to die, or be removed, as aforesaid, before the general Day of Election, that then, and in every such Case, the Great and General Court or Assembly at their first sitting, may proceed to a new Election of one or more Councillors or Assistants, in the Room or Place of such Councillors or Assistants so dying or removed. And We do further grant and ordain, That it shall and may be lawful for the said Governour, with the Advice and Consent of the Council or Assistants, from time to time, to nominate and appoint Judges, Commissioners of *Oyer and Terminer*, Sheriffs, Provosts, Marshals, Justices of the Peace, and other Officers, to our Council and Courts of Justice belonging. *Provided always*, that no such Nomination or Appointment of Officers be made without Notice first given, or Summons issued out seven Days before such Nomination or Appointment, unto such of the said Councillors or Assistants as shall be at that time residing within Our said Province. And Our Will and Pleasure is, That the Governour, and Lieutenant or Deputy Governour and Councillors or Assistants for the time being, and all other Officers to be appointed or chosen, as aforesaid, shall, before the undertaking the Execution of their Offices and Places respectively, take their several and respective Oaths for the due and faithful Performance of their Duties in their several and respective Offices and Places; and also the Oaths appointed by the said Act of Parliament made in the first Year of Our Reign, to be taken instead of the Oaths of Allegiance and Supremacy; and shall make, repeat and subscribe the Declaration mentioned in the said Act, before such Person or Persons as are by these Presents herein after appointed: (*That is to say,*) The Governour of Our said Province or Territory, for the time being, shall take the said Oaths, and) make, repeat and subscribe the said Declaration before the Lieutenant or Deputy Governour; or, in his Absence, before any two or more of the said Persons hereby nominated and appointed the present Councillors or Assistants of Our said Province or Territory, to whom We do by these Presents give full Power and Authority to give and administer the same to Our said Governour accordingly. And after Our said Governour shall be Sworn, and shall have subscribed the said Declaration, that then our Lieutenant or Deputy Governour for the time being, and the Councillors or Assistants before by these Presents nominated and appointed, shall take the said Oaths, and make, repeat and subscribe the said Declaration before Our said Governour: And that every such Person or Persons as shall (at any time of the annual Elections, or otherwise upon Death or Removal) be appointed to be the new Councillors or Assistants, and all other Officers to be hereafter chosen from time to time, shall take the Oaths to their respective Offices and Places belonging; and also the said Oaths appointed by the said Act of Parliament, to be taken instead of the Oaths of Allegiance and Supremacy; and shall make, repeat and subscribe the Declaration mentioned in the said Act, before the Governour, or Lieutenant or Deputy Governour, or any two or more Councillors or Assistants; or such other Person or Persons as shall be appointed thereunto by the Governour for the time being: To whom we do therefore by these Presents give full Power and Authority from time to time, to give and administer the same respectively, according to our true meaning herein before declared, without any Commission or further Warrant, to be had and obtained from Us, Our Heirs and Successors in that Behalf. And Our Will and Pleasure is, and We do hereby require and command, That all and every Person and Persons hereafter by Us, Our Heirs and Successors, nominated and appointed to the respective Offices of Governour, or Lieutenant or Deputy Governour, and Secretary of Our said Province or Territory (which said Governour, or Lieutenant, or Deputy Governour, and Secretary of Our said Province or Territory for the time being, We do hereby reserve full Power and Authority, to Us, our Heirs and Successors to nominate and appoint accordingly) shall before he or they be admitted to the Execution of their respective Offices, take as well the Oath for the due and faithful Performance of the said Offices respectively, as also the Oaths appointed by the said Act of Parliament, made in the said first Year of Our Reign, to be taken instead of the said Oaths of Allegiance and Supremacy; and shall also make repeat

repeat and subscribe the Declaration appointed by the said Act in such Manner and before such Persons as aforesaid. And further Our Will and Pleasure is, and We do hereby for Us, Our Heirs and Successors, grant, establish and ordain, that all and every of the Subjects of Us, Our Heirs and Successors, which shall go to and inhabit within Our said Province and Territory, and every of their Children which shall happen to be born there, or on the Seas in going thither, or returning from thence, shall have and enjoy, all Liberties and Immunities of free and natural Subjects within any of the Dominions of Us, Our Heirs and Successors, to all Intents, Constructions and Purposes whatsoever, as if they and every of them were born within this Our Realm of *England*. And for the greater Ease and Encouragement of Our loving Subjects inhabiting Our said Province or Territory of the *Massachusetts-Bay*, and of such as shall come to inhabit there, We do by these Presents, for Us, Our Heirs and Successors, grant, establish and ordain, that for ever hereafter there shall be a Liberty of Conscience allowed in the Worship of God to all Christians (except Papists) inhabiting or which shall inhabit or be resident within Our said Province or Territory. And We do hereby grant and ordain, That the Governour, or Lieutenant, or Deputy-Governour of Our said Province or Territory, for the time being, or either of them, or any two or more of the Council or Assistants for the time being, as shall be thereunto appointed by the said Governour, shall and may at all times, and from time to time hereafter, have full Power and Authority to administer and give the Oaths appointed by the said Act of Parliament, made in the first Year of Our Reign, to be taken instead of the Oaths of Allegiance and Supremacy, to all and every Person and Persons which are now inhabiting or residing within Our said Province or Territory, or which shall at any time or times hereafter go or pass thither. And We do of Our further Grace, certain Knowledge and meer Motion, grant, establish and ordain, for Us, Our Heirs and Successors, that the Great and General Court or Assembly of Our said Province or Territory for the time being, convened as aforesaid, shall for ever have full Power and Authority to erect and constitute Judicatories and Courts of Record, or other Courts, to be held in the Name of Us, Our Heirs and Successors; for the hearing, trying and determining of all Manner of Crimes, Offences, Pleas, Processes, Plaints, Actions, Matters, Causes and Things whatsoever, arising or happening within Our said Province or Territory; or between Persons inhabiting or residing there; whether the same be criminal or civil, and whether the said Crimes be capital or not capital, and whether the said Pleas be real, personal or mixt; and for the awarding and making out of Execution thereupon: To which Courts and Judicatories, We do hereby, for Us, Our Heirs and Successors, give and grant full Power and Authority, from time to time to administer Oaths for the better Discovery of Truth in any Matter in Controversy or depending before them. And We do for Us, Our Heirs and Successors, grant, establish and ordain, that the Governour of Our said Province or Territory for the time being, with the Council or Assistants, may do, execute or perform all that is necessary for the Probate of Wills, and granting of Administrations for touching or concerning any Interests or Estate which any Person or Persons shall have within our said Province or Territory: And whereas We judge it necessary, that all Our Subjects should have Liberty to appeal to Us, Our Heirs and Successors, in Cases that may deserve the same, We do by these Presents ordain, that in Case either Party shall not rest satisfied with the Judgment or Sentence of any Judicatories or Courts within Our said Province or Territory in any personal Action, wherein the Matter in Difference doth exceed the Value of *Three Hundred Pounds* Sterling, that then he or they may appeal to Us, Our Heirs and Successors, in Our or their Privy Council. *Provided*, Such Appeal be made within fourteen Days after the Sentence or Judgment given; and that before such Appeal be allowed, Security be given by the Party or Parties appealing, in the Value of the Matter in Difference, to pay or answer the Debt or Damages for the which Judgment or Sentence is given, with such Costs and Damages as shall be awarded by Us, Our Heirs or Successors, in Case the Judgment or Sentence be affirmed: And *Provided also*, That no Execution shall be staid or suspended, by Reason of such Appeal unto Us, Our Heirs and Successors, in Our or their Privy Council; so as the Party suing or taking out Execution, do in the like Manner give Security to the Value of the Matter in Difference, to make Restitution in Case the said Judgment

Persons born in *New England*, to have the Privileges of natural Subjects of *England*.

Liberty of Conscience to be granted to all Christians, except Papists.

Governor &c. to administer the Oaths appointed to the Inhabitants.

The General Court impowered to erect Judicatories, and Courts of Record, &c.

Governor with the Council shall have the Probate of Wills, and granting Administrations.

Appeals to the King in some Personal Actions.

Execution not to be staid.

In Case of the Governor's Death removal or Absence from his Government, the Lieutenant Governor shall supply his Place.

In the absence of both the Governor and Deputy Governor, the major Part of the Council to have their Power.

Admiralty Jurisdictions reserved.

The Trade of Fishing not to be abridg'd.

Trees fit for Masts not growing upon any Soil granted to particular Persons to be preserved.

Power and Authority, to do and execute all and every such Acts, Matters and Things, which Our Governour of Our said Province, for the time being, might or could by Vertue of these Our Letters Patents lawfully do or execute, if he were personally present, until the return of the Governour so absent, or the Arrival or Constitution of such other Governour as shall or may be appointed by Us, Our Heirs or Successors in his stead: And that when and as often as the Governour, and Lieutenant or Deputy Governour of Our said Province or Territory, for the time being, shall happen to die, or be displaced by Us, Our Heirs or Successors, or be absent from Our said Province; and that there shall be no Person within the said Province, commissioned by Us, Our Heirs or Successors to be Governour within the same; then and in every of the said Cases, the Council or Assistants of Our said Province shall have full Power and Authority, and We do hereby give and grant unto the said Council or Assistants of Our said Province, for the time being, or the major Part of them, full Power and Authority to do and execute all and every such Acts, Matters and Things which the said Governour, or Lieutenant or Deputy Governour of Our said Province or Territory, for the time being, might or could lawfully do or exercise, if they or either of them were personally present, until the return of the Governour, Lieutenant or Deputy Governour so absent, or Arrival or Constitution of such other Governour, or Lieutenant or Deputy Governour, as shall and may be appointed by Us, Our Heirs or Successors from time to time. *Provided always,* and it is hereby declared, that nothing herein shall extend or be taken to erect, or grant, or allow the exercise of any Admiral Court, Jurisdiction, Power or Authority, but that the same shall be, and is hereby reserved to Us and Our Successors, and shall from time to time be erected, granted and exercised by Virtue of Commissions to be issued under the great Seal of *England*, or under the Seal of the High Admiral, or the Commissioners for executing the Office of High Admiral of *England*. And further, Our express Will and Pleasure is, and We do by these Presents, for Us, Our Heirs and Successors, ordain and appoint that these Our Letters Patents shall not in any Manner enure, or be taken to abridge, bar or hinder any of Our loving Subjects whatsoever, to use and exercise the Trade of Fishing upon the Coasts of *New-England*, but that they and every of them shall have full and free Power and Liberty to continue and use their said Trade of Fishing upon the said Coast, in any of the Seas thereunto adjoining, or any Arms of the said Seas or Salt-Water Rivers, where they have been wont to Fish; and to build and set upon the Lands within Our said Province or Colony, lying waste, and not then possess'd by particular Proprietors, such Wharffs, Stages and Work-Houses, as shall be necessary for the Salting, Drying, Keeping and Packing of their Fish, to be taken or gotten upon that Coast; and to cut down and take such Trees and other Materials there growing, or being upon any Parts or Places lying waste, and not then in Possession of particular Proprietors, as shall be needful for that Purpose, and for all other necessary Equipments, Helps and Advantages concerning the Trade of Fishing there, in such Manner and Form as they have been heretofore at any Time accustomed to do, without making any wilful Waste or Spoil; any Thing in these Presents contained to the contrary notwithstanding. And lastly, for the better providing and furnishing of Masts for Our Royal Navy, We do hereby reserve to Us, Our Heirs and Successors, all Trees of the Diameter of twenty four Inches, and upwards of twelve Inches from the Ground, growing upon any Soil or Tract of Land within Our said Province or Territory, not heretofore granted to any private Persons: And We do restrain and forbid all Persons whatsoever from selling, cutting or destroying any such Trees without the Royal Licence of Us, Our Heirs and Successors, first had and obtained; upon Penalty of forfeiting *One Hundred Pounds Sterling* unto Us, Our Heirs and Successors, for every such Tree so felled, cut or destroyed, without such Licence had or obtained in that Behalf: Any Thing in these Presents contained to the contrary in any wise notwithstanding.

In Witness whereof We have caused these Our Letters to be made Patents. Witness Our Selves at *Westminster*; the Seventh Day of *October*, in the Third Year of Our Reign.

By Writ of Privy Seal.

PIGOT.

The Explanatory CHARTER *granted by His*
Majesty King GEORGE.

GEORGE, by the Grace of GOD of *Great-Britain, France and Ireland*, KING, Defender of the Faith, &c. To all to whom these Presents shall come, Greeting. Whereas Our late Royal Predecessors *WILLIAM* and *MARY*, KING and QUEEN of *England*, &c. did by their Letters Patents under their great Seal of *England*, bearing Date at *Westminster*, the seventh of *October* in the third Year of their Reign, for, Themselves, their Heirs and Successors, unite, erect and incorporate, the Territories and Colonies, commonly called or known by the Names of the Colony of the *Massachusetts-Bay*, and Colony of *New-Plymouth*, the Province of *Main*, the Territory called *Accada* or *Nova-Scotia*, and all that Tract of Land lying between the said Territories of *Nova-Scotia*, and the said Province of *Main*, into one real Province by the Name of Our Province of the *Massachusetts-Bay* in *New-England*. And whereas their said late Majesties King *WILLIAM* and Queen *MARY*, did by the said recited Letters Patents (amongst other Things therein contained) for themselves, their Heirs, and Successors, ordain and grant, that there should and might be convened held and kept by the Governour for the time being, upon every last Wednesday in the Month of *May* every Year for ever, and at all such other Times as the Governour of their said Province should think fit, and appoint a Great and General Court or Assembly; which said Great and General Court or Assembly should consist of the Governour and Council, or Assistants for the time being, and of such Freeholders of their said Province or Territories as should be from time to time elected or deputed by the major part of the Freeholders and other Inhabitants of the respective Towns or Places, who should be present at such Elections: Each of the said Towns and Places, being thereby impowered to elect and depute two Persons and no more, to serve for and represent them respectively in the said Great and General Court or Assembly, and that the Governour for the time being should have full Power and Authority from time to time as he should judge necessary, to adjourn, prorogue and dissolve all Great and General Courts or Assemblies met and convened as aforesaid: And did thereby also for themselves, their Heirs and Successors, provide, establish and ordain, that in the framing and passing of all Orders, Laws, Statutes, and Ordinances, and in all Elections, and Acts of Government whatsoever, to be passed, made or done by the said General Court or Assembly or in Council, the Governour of the said Province or Territory of the *Massachusetts-Bay* in *New-England* for the time being, should have the Negative Voice, and that without his Consent or Approbation, signified and declared in Writing, no such Orders, Laws, Statutes, Ordinances, Elections, or other Acts of Government whatsoever, so to be made, passed or done by the said General Assembly, or in Council, should be of any Force, Effect, or Validity, any thing therein contained to the contrary in any wise notwithstanding; as in and by the said Letters Patents (Relation being thereunto had) may more fully and at large appear.

And whereas no Provision is made by the said recited Letters Patents, touching the Nomination and Election of a *Speaker* of the Representatives, assembled in any Great and General Court of Our said Province, nor any particular Reservation made of the Right of Us, Our Heirs and Successors to approve or disapprove of such *Speaker* by the Governour of the said Province appointed, or to be appointed by Us or Them for the time being: And no Power is granted by the said recited Letters Patents to the said House of Representatives to adjourn themselves for any time whatsoever; by Means whereof divers Doubts and Controversies have arisen within Our said Province, to the Interruption of the publick Business thereof, and the Obstruction of Our Service; *Know ye therefore,*
that

Speaker to
be approved
or disapproved
by written
Message.

that for removing the said Doubts and Controversies, and preventing the like Mischiefs for the future ; And also for the further Explanation of the said recited Letters Patents, We of Our especial Grace, certain Knowledge, and meer Motion, have granted, ordained and appointed, and by these Presents for Us, Our Heirs and Successors, do will, grant, ordain, and appoint, that for ever hereafter, the Representatives assembled in any Great or General Court of Our said Province to be hereafter Summoned, shall upon the first Day of their assembling, elect a fit Person out of the said Representatives, to be *Speaker* of the House of Representatives, in such General Court ; and that the Person so elected shall from time to time be presented to the Governour of Our said Province for the time being, or in his Absence to the Lieutenant Governour or Commander in Chief of Our said Province for the time being, for his Approbation : To which Governour, Lieutenant Governour and Commander in Chief respectively, We do hereby for Us, Our Heirs and Successors, give full Power and Authority to approve or disapprove of the Person so elected and presented, which Approbation or Disapprobation shall be signified by him by Message in writing under his Hand to the said House of Representatives ; and in Case such Governour, Lieutenant Governour or Commander in Chief, shall disapprove of the Person so elected and presented, or the Person so elected and presented being approved as aforesaid shall happen to die, or by Sickness or otherwise be disabled from officiating as *Speaker*, in every such Case, the said Representatives so assembled, shall forthwith elect an other Person to be Speaker of the House of Representatives to be presented and approved, or disapproved, in Manner as aforesaid, and so from time to time as often as the Person so elected and presented shall be disapproved of, or happen to die, or become disabled as aforesaid.

Representatives to adjourn themselves not exceeding two Days without Leave.

And Our further Will and Pleasure is, and We do by these Presents of Our more abundant Grace for Us, Our Heirs and Successors, grant, ordain, and appoint, that it shall and may be lawful to and for the Representatives assembled in any Great or General Court of Our said Province for the time being, forever hereafter, to adjourn themselves from Day to Day, (and if Occasion shall require) for the space of two Days ; but not for any longer time, than for the space of two Days without Leave from the Governour, or in his Absence from the Lieutenant Governour, or Commander in Chief of Our said Province for the time being, first had and obtained in that behalf, any Thing in the said recited Letters Patents contained to the contrary thereof in any wise notwithstanding.

Provided always, That nothing in these Presents contained shall extend, or be construed to extend, to revoke, alter, or prejudice the Power and Authority by the said recited Letters Patents, granted to the Governour of the said Province for the time being, to adjourn, prorogue and dissolve all Great and General Courts or Assemblies of Our said Province.

And lastly, We do by these Presents, for Us, Our Heirs and Successors, grant that these Our Letters Patents, or the Enrolment, or Exemplification thereof, shall be in and by all Things good, firm, valid and effectual in the Law according to the true intent and meaning thereof, notwithstanding the not rightly, or fully reciting, mentioning, or describing the said recited Letters Patents, or the Date thereof, or any other Omission, Imperfection, Defect, Matter, Cause or Thing whatsoever to the contrary thereof in any wise notwithstanding.

In Witness whereof, We have caused these Our Letters to be made Patents, Witness, WILLIAM Arch Bishop of *Canterbury*, and the rest of the Guardians and Justices of the Kingdom at *Westminster*, the six and twentieth Day of *August*, in the twelfth Year of Our Reign.

By Writ of Privy Seal.

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A N D
L A W S,
Of His Majesty's
P R O V I N C E
O F T H E
M A S S A C H U S E T T S - B A Y
I N
N E W - E N G L A N D .



B O S T O N , in N E W - E N G L A N D :

Printed by S. KNEELAND, by Order of His Excellency the
GOVERNOR, COUNCIL and House of REPRESENTATIVES.
M,D,CC,LIX.



Printed,

By Order of His Excellency the Governor,
Council and Assembly.

Andrew Oliver, Secr.

B O S T O N, Febr. 9th
1759.



Building with Stone or Brick.

I



Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the Massachusetts-Bay in New-England : Begun and held at Boston the eighth of June 1692. and continued by Adjournment unto the twelfth Day of October following.

CHAP. I.

An Act for building with Stone or Brick in the Town of Boston, and preventing Fire.

WHEREAS Great Desolations and Ruins have sundry Times happened by Fire breaking out in the Town of Boston, principally occasioned by Reason of the joining and nearness of the Buildings, being mostly of Timber, and covered with Shingle :

Preamble.

For the better preventing of such Accidents for the future, and Damage and Loss thereby :

12. W. Ca. 3.

10. Ann. ca. 2.

16 G. 2. ca. 3.

25 G. 2. ca. 2.

Be it ordained and enacted by the Governour, Council and Representatives, convened in General Court or Assembly, and it is enacted by the Authority of the same, That henceforth no Dwelling-House, Shop, Warehouse, Barn, Stable, or any other Housing of more than eight Feet in Length, or Breadth, and seven Feet in Heighth, shall be erected and set up in Boston, but of Stone or Brick, and covered with Slate or Tile ; unless in particular Cases where Necessity requires, being so judged and signified in Writing under the Hands of the Justices and Select-Men of the said Town, or major Part of both ; the Governour with the Advice and Consent of the Council, shall see Cause to grant Licence unto any Person to build with Timber, or cover with Shingle : And if any Person shall presume to erect, or cause to be erected, any Frame or Building contrary hereto ; upon Conviction thereof, before two Justices of Peace (*Quorum Unus*) such Building shall be deemed a common Nuisance, and the Owner of such Frame or Building shall enter into a Recognizance to demolish the same ; and in Default of entering into such Recognizance, shall be committed to Prison, until he do cause the same to be demolished ; or else such Building shall be demolished by Order of the Quarter Sessions of the Peace within the said County, and the Charges thereof to be levied by Distress, and Sale of such Offenders Goods, by Warrant from the Court of Quarter Sessions.

Buildings in Boston to be of Brick or Stone, and covered with Slate.

Governour and Council to grant Licence to build with Timber in Case.

Penalty for transgressing this Act.

Administration of Intestate Estates.

Justices and
Select-Men to
lay out Streets
&c.

A Jury to as-
certain the
Value of any
Persons Land
laid to any
Street.

Party Wall
to stand half
in the Neigh-
bours Ground

And it is further ordered and enacted, That in all void and unbuilt Places which shall hereafter be improved for Building, or when at any Time any total Consumption or Desolation shall happen in any Street or Lane within the said Town, it shall be in the Power of the Justices of the Peace of said Town then in being, together with the Select-Men, or the major Part of both; to state and lay out such Streets, Ways and Passages, as may be most for the Conveniency and Accommodation of the Place; as also where any Desolation has happened, to regulate and enlarge other narrow and crooked Lanes or Passages. And where any particular Persons shall have their Land taken away or lessened thereby, a Jury of twelve Men shall be appointed by two Justices of the Peace, and sworn to Ascertain the Value thereof, to be paid by the Person, to whose Land the same shall be added, or by the Neighbourhood, or Town, in Proportion to the Benefit or Conveniency any shall have thereby. And every Person building as aforesaid with Brick or Stone, shall have Liberty to set half his Partition Wall in his Neighbours Ground, so that he leave toothing in the Corners of such Walls for his Neighbour to join unto, who when he shall build, such Neighbour adjoining, shall pay for one half of the said Partition Wall, so far as it shall be built against. And in Case of any Difference arising, the Select-Men shall have Power to appoint meet Persons to value the same, or lay out the Line between such Neighbours.

And whereas several Houses and other Buildings have been erected and set up since the Year 1688, contrary to the Law made by the General Court of the Massachusetts Colony :

It is hereby ordained and enacted by the Authority aforesaid, That every Owner of such House and Buildings so set up, contrary to said Law, shall cause the same to be covered with Slate or Tile; or otherwise such Houses or Buildings shall be deemed a common Nuisance, and the Owner thereof proceeded against accordingly.

Two or three
of the chief
Military and
Civil Officers
to order the
pulling down
or blowing up
of Houses to
stop Fire.

For which
the Owners
shall be paid.

And be it further enacted and declared by the Authority aforesaid, That when any Fire shall happen to break out either in *Boston*, or any other Town within this Province, two or three of the chief military or civil Officers of the same Town, shall, or may, and hereby are impowered to give Directions for the pulling down, or blowing up any such House or Houses that shall be by them adjudged meet to be pulled down or blown up, for the stopping and preventing the further spreading of the same: And if it shall happen that the pulling down or blowing up any such House or Houses by the Directions aforesaid, shall be the Occasion of stopping the said Fire, or that the Fire stop before it come to the same; that then all and every Owner of such House or Houses, shall receive reasonable Satisfaction, and be paid for the same, by the rest of the Inhabitants, whose Houses shall not be burnt; who are hereby impowered to make such Rate or Rates for the raising and levying such Sum and Sums of Money as shall be thought convenient by the Select-Men and Justices of said Town for that End.

Proviso.

Provided always, That if the House where the Fire shall first begin and break out, shall be adjudged fit to be pulled down or blown up to hinder the further spreading and increase of the same; that then the Owner of such House shall receive no manner of Satisfaction for the same: Any thing in this Act contained notwithstanding.

C H A P. II.

An Act for the Settlement and Distribution of the Estates of Intestates.

Preamble.

WHEREAS Estates in these Plantations do consist chiefly of Lands which have been subdued and brought to Improvement, by the Industry and Labour of the Proprietors, with the Assistance of their Children, the younger Children generally having been longest and most serviceable unto their Parents in that Behalf: who have not Personal Estate to give out unto them in Portions, or otherwise to Recompence their Labour :

We

Administration of Intestate Estates.

3

We it therefore enacted and ordained by the Governour, Council and Representatives convened in General Court or Assembly, and it is ordained by the authority of the same, That every Person lawfully seized of any Lands, Tenements, or Hereditaments within this Province, in his own proper Right in Fee Simple, shall have Power to give, dispose, and devise, as well by his last Will and Testament in Writing, as otherwise by any Act executed in his Life, all such Lands, Tenements and Hereditaments to and among his Children or others, as he shall think fit at his Pleasure : And if no such Disposition, Gift or Devise be made by the Owner of any such Lands, Tenements and Hereditaments ; the same shall be subject to a Division, with his Personal Estate, and be a like distributed, according to the Rules herein after expressed for intestate Estates. And when and so often as it shall happen, That any Person dies Intestate, Administration of such Intestates Goods and Estate shall be granted unto the Widow or next of Kin to the Intestate, or both, as the Judge for Probate of Wills, and granting of Administrations shall think fit, who shall thereupon take Bond with Sureties in manner as is directed by the Statute of the twenty second and twenty third of Charles the Second ; and shall and may proceed to call such Administrators to Account for, and touching the Goods of the Intestate : And upon due Hearing and Consideration thereof, (Debts, Funeral and just Expences of all Sorts being first allowed) the said Judge shall, and hereby is fully empowered to order and make a just Distribution of the Surplusage, or remaining Goods and Estate, as well Real as Personal, in Manner following : *That is to say*, One third Part of the Personal Estate to the Wife of the Intestate for ever, besides her Dower of Thirds in the Houses and Lands during Life, where such Wife shall not be otherwise endowed before Marriage ; and all the Residue of the Real and Personal Estate by equal Portions to and among his Children, and such as shall legally represent them ; (if any of them be dead) other than such Children, who shall have any Estate by Settlement of the Intestate in his Life-time equal to the others Shares. Children advanced by Settlement, or Portions not equal to the others Shares, to have so much of the Surplusage as shall make the Estate of all to be equal, except the eldest Son then surviving, (where there is no Issue of the First-born or of any other elder Son) who shall have two Shares, or a double Portion of the whole ; and where there are no Sons, the Daughters shall inherit as Coparceners. The Division of the Houses and Lands to be made by five sufficient Freeholders upon Oath, or any three of them, to be appointed and sworn by the Judge for that End : Unless where all the Parties interested in any Estate being legally capable to act, shall mutually agree of a Division among themselves, and present the same in Writing under their Hands and Seals : In which Case, such Agreement shall be accepted and allowed for a Settlement of such Estate, and be accounted valid in Law, being acknowledged by the Parties subscribing before the Judge, and put upon Record.

Provided nevertheless, That where any Estate in Houses and Lands cannot be divided among all the Children, without great Prejudice to, or spoiling of the whole ; being so represented, and made to appear unto the said Judge, the Judge may order the whole unto the eldest Son, if he accept it, or to any other of the Sons successively, upon his refusal : He paying unto the other Children of the Deceased, their equal and proportionable Parts or Shares of the true Value of such Houses and Lands ; upon a just Appraisement thereof, to be made by three sufficient Freeholders upon Oath, to be appointed and sworn as aforesaid, or giving good Security to pay the same in some convenient Time, as the said Judge shall limit, making reasonable Allowance in the Interim, not exceeding *six per Cent per Annum* And if any of the Children happen to die, before he or she come of Age, or be married ; the Portion of such Child deceased, shall be equally divided among the Survivors.

And in Case there be no Children, nor any legal Representatives of them, then one Moiety of the Personal Estate, shall be allotted to the Wife of the Intestate for ever ; and one Third of the Real Estate for Term of Life. The Residue both of the Real and Personal Estate, equally to every of the next of Kin of the Intestate in equal Degree, and those who legally represent them. No Representatives to be admitted among Collaterals after Brothers and Sisters Children. And

7 & 8 G. 2. ca. 1.
23 G. 2. ca. 6.

Persons seized of Lands in Fee simple may dispose of the same by Will, &c.

Administration to the Estate of Intestates how to be granted.

Ca. 10

Distribution of Intestate Estates.

8 G. 2. ca. 1.
Dower.
13 Wm. ca. 9.
9 Anne ca. 2.

6 Geo. ca. 3.

4 Geo. 2d. ca. 3.

Houses and Lands not capable of Division, to be ordered unto the eldest Son, he paying out proportionable Parts to the other Children.

6 Geo. ca. 3.

In Case there be no Children nor legal Representative of them, the Estate to be allotted to the Wife and next of Kin.

9 *Annæ* ca. 2.Right of Ap-
peal saved.
See Explana-
tory Act 4 *W.*
& *M.* ca. 20.Executors to
cause Probate
of Wills to be
made in thirty
Days next af-
ter the Testa-
tor's Death.Penalty for
neglect.Upon refusal,
Administra-
tion to be com-
mitted *Cum*
Testamento an-
nexo.Executors by
wrong.

And if there be no Wife, all shall be distributed among the Children, and if no Child, to the next of Kin to the Intestate in equal Degree, and their legal Representatives as aforesaid, and in no other Manner whatsoever. And every one to whom any Share shall be allotted, shall give Bond with Sureties before the said Judge of Probate, if Debts afterwards be made to appear, to refund and pay back to the Administrator, his or her rateable Part thereof, and of the Administrators Charges. The Widows Thirds or Dower in the Real Estate, at the Expiration of her Term, to be alike divided as aforesaid, saving to any Person aggrieved at any Order, Sentence or Decree made for the Settlement and Distribution of any Intestate Estate, their Right of Appeal unto the Governour and Council, every Person so appealing, giving Security to prosecute the Appeal with Effect.

Be it further enacted by the Authority aforesaid, That if any Executor or Executors of the Will of any Person deceased, knowing of their being so named and appointed, shall not within the space of thirty Days next after the Decease of the Testator, cause such Will to be Proved and Recorded in the Register's Office of the same County where the deceased Person last dwelt; or present the said Will, and declare his or their refusal of the Executorship: every Executor so neglecting of his or her Trust and Duty in that Behalf, (without just Excuse made and accepted for such Delay) shall forfeit the Sum of *Five Pounds* per Month, from and after the Expiration of the said thirty Days, until he or they shall cause Probate of such Will to be made, or present the same as aforesaid: Every such Forfeiture to be had and recovered by Action or Information, in the Inferiour Court of Pleas; in the same County; and to be disposed of, one Moiety thereof to the Use of the Poor of the Town, where the deceased Person last dwelt; and the other Moiety to him or them that shall inform and sue for the same. And upon any such refusal of the Executor, or Executors, the Judge shall commit Administration of the Estate of the Deceased, *Cum Testamento annexo*, unto the Widow or next of Kin to the Deceased, and upon their Refusal, to one or more of the principal Creditors, as he shall think fit.

And if any Person or Persons shall alienate or embezel any of the Goods or Chattels of any Person deceased, before he or they have taken out Letters of Administration, and exhibited a true Inventory of all the known Estate of the Party deceased; every Person or Persons so acting, shall stand chargeable, and be liable to the Actions of the Creditors and other Persons grieved, as being Executors in their own wrong. And the Judge shall cause a Citation to be made out unto the Widow, or next of Kin; and upon their neglect of Appearance or Refusal, may commit Administration of any such Estate, to some one or more of the chief Creditors, if accepted by them, or others, as he shall think fit, upon their Refusal.

C H A P. III.

An Act for Prevention of Frauds and Perjuries.

Act of Parlia-
ment, 29 *Car.*
2. c. 3.
4 *W. & M.* ca. 6.
8 *W.* ca. 3.
31 *G.* 2. ca. 6Parole Leases
and Interest of
Freehold shall
have the Force
of Estates at
Will only.Except Leases
not exceeding
three Years &c.

FOR Prevention of many fraudulent Practices which are commonly endeavoured to be upheld by Perjury, and Subornation of Perjury:

Be it enacted and ordained by the Governour, Council and Representatives, convened in General Court, and by the Authority of the same, That from and after the last Day of *December* in this present Year one Thousand six Hundred ninety and two: All Leases, Estates, Interests of Freehold, or Term of Years, or any uncertain Interest of, in, or out of any Messuages, Lands, Tenements, or Hereditaments, made or created by Livery and Seisin only, or by Parole, and not put in Writing and signed by the Parties, so making or creating of the same, or their Agents thereunto lawfully authorized by Writing, shall have the Force and Effect of Leases, or Estates at Will only, and shall not either in Law or Equity be deemed or taken to have any other or greater Force or Effect; any Consideration for making any such Parole Leases or Estates, or any former Law or Usage to the contrary notwithstanding.

Except nevertheless, All Leases not exceeding the Term of three Years from the making thereof, whereupon the Rent reserved to the Landlord, during such Term, shall amount unto two third Parts at the least of the full improved Value of the Thing demised.

And

Frauds and Perjuries.

5

And moreover, That no Leases, Estates or Interests, either of Freehold, or Term of Years, or any uncertain Interest of, in, to or out of any Messuages, Lands, Tenements or Hereditaments, shall at any time after the said last Day of *December*, be assigned, granted or surrendred, unless it be by Deed or Note in Writing, signed by the Party so assigning, granting or surrendering the same, or their Agents thereunto lawfully authorized by Writing, or by Act and Operation of Law.

No Leases or Estates of Freehold to be granted or surrendred by Word.

And he it further enacted by the Authority aforesaid, That from and after the said last Day of *December*, no Action shall be brought whereby to charge any Executor or Administrator upon any special Promise to answer Damages out of his own Estate, (2) or whereby to charge the Defendant upon any special Promise to answer for the Debt, Default or Miscarriages of another Person, (3) or to charge any Person upon any Agreement made upon Consideration of Marriage, (4) or upon any Contract or Sale of Lands, Tenements or Hereditaments, or any Interest in, or concerning them; (5) or upon any Agreement that is not to be performed within the Space of one Year from the making thereof; (6) unless the Agreement upon which such Action shall be brought, or some Memorandum or Note thereof shall be in Writing, and signed by the Party to be charged therewith, or some other Person thereunto by him lawfully authorized.

Promises and Agreement by Parole.

And he it further enacted by the Authority aforesaid, That from and after the said last Day of *December*, all Devises and Bequests of any Lands or Tenements, shall be in Writing, and signed by the Party so devising the same, or by some other Person in his Presence, and by his express Direction, and shall be attested and subscribed in the Presence of the said Devisor, by three or four credible Witnesses, or else shall be utterly void and of none Effect.

Devises of Lands to be in Writing & attested by three or four Witnesses.

And moreover, No Devise in Writing of Lands, Tenements or Hereditaments, or any Clause thereof, shall at any time after the said last Day of *December*, be revocable, otherwise than by some other Will or Codicil in Writing, or other Writing declaring the same, or by burning, cancelling, tearing, or obliterating the same by the Testator himself, or in his Presence, and by his Direction and Consent; (2) But all Devises and Bequests of Lands and Tenements shall remain and continue in full Force, until the same be burnt, cancelled, torn or obliterated by the Testator, or his Direction in manner aforesaid, or unless the same be altered by some other Will or Codicil in Writing, or other Writing of the Devisor, signed in the Presence of three or four Witnesses, declaring the same: Any former Law or Usage to the contrary notwithstanding.

How the same shall be revocable

And he it further enacted by the Authority aforesaid, That from and after the said last Day of *December*, all Declarations or Creations of Trusts, or Confidences of any Lands, Tenements or Hereditaments, shall be manifested and proved by some Writing, signed by the Party who is by Law enabled to declare such Trust, or by his last Will in Writing, or else they shall be utterly void and of none Effect.

All Declarations or Creations of Trust to be in Writing.

Provided alway, That where any Conveyance shall be made of any Lands or Tenements, by which a Trust or Confidence shall or may arise or result by the Implication or Construction of Law, or be transferred or extinguished by an Act or Operation of Law, then, and in every such Case, such Trust or Confidence shall be of the like Force and Effect as the same would have been if this Act had not been made: Any thing herein before contained to the contrary notwithstanding.

Trusts arising, transferred or extinguished by Implication of Law excepted.

And he it further enacted, That all Grants and Assignments of any Trust or Confidence, shall likewise be in Writing, signed by the Party, granting or assigning the same by such last Will or Devise, or else shall be utterly void and of none Effect.

Assignments of Trust shall be in Writing.

And he it further enacted by the Authority aforesaid, That from and after the said last Day of *December*, No Contract for the Sale of any Goods, Wares and Merchandizes, for the Price of *Ten Pounds*, or upwards, shall be allowed to be good, except the Buyer shall accept Part of the Goods so sold, and actually receive the same, or give something in Earnest to bind the Bargain, or in Part of Payment, or that some Note or Memorandum in Writing of the said Bargain, be made

Contract for Sale of Goods for ten Pounds or more.

Judgments and Executions.

made and signed by the Parties to be charged by such Contract, or their Agents thereunto lawfully authorized.

And for Prevention of fraudulent Practices in setting up nuncupative Wills, which have been the Occasion of much Perjury :

Nuncupative Will not to be good for above the value of thirty Pounds, that is not proved by the Oaths of three Witnesses.

Be it enacted by the Authority aforesaid; That from and after the aforesaid last Day of *December*, no nuncupative Will shall be good, where the Estate thereby bequeathed, shall exceed the Value of *Thirty Pounds*, that is not proved by the Oaths of three Witnesses, (at the least) that were present at the making thereof, nor unless it be proved that the Testator at the time of pronouncing the same, did bid the Persons present, or some of them bear Witness that such was his Will, or to that Effect ; nor unless such nuncupative Will were made in the time of the last Sickness of the Deceased, and in the House of his or their Habitation or Dwelling, or where he or she hath been Resident, for the Space of ten Days or more, next before the making of such Will, except where such Person was surprized or taken sick being from his own Home, and died before he returned to the Place of his or her Dwelling.

No Testimony to be received to prove such Will after six Months, except, &c.

And be it further enacted, That after six Months passed after the speaking of the pretended testamentary Words, no Testimony shall be received to prove any Will nuncupative, except the said Testimony, or the Substance thereof were committed to Writing within six Days after the making of the said Will.

Probate of Nuncupative Wills.

And be it further enacted, That no Letters Testamentary, or Probate of any nuncupative Will, shall pass the Seal of any Court, till fourteen Days at the least after the Decease of the Testator be fully expired, nor shall any nuncupative Will be at any time received to be proved, unless Process have first issued to call in the Widow, or next of Kindred to the Deceased, to the End they may contest the same, if they please.

No written Will to be repealed but by Writing, except &c.

And be it further enacted, That no Will in Writing, concerning any Goods or Chattels or Personal Estate, shall be repealed ; nor shall any Clause Devise or Bequest therein, be altered or changed by any Words, or Will by Word of Mouth only, except the same be in the Life of the Testator, committed to Writing, and read to the Testator and allowed by him, and proved to be so done by three Witnesses at the least.

Soldiers and Mariners Will excepted

Provided always, That notwithstanding this Act, any Soldier being in actual Military Service, or any Mariner or Seamen being at Sea, may dispose of his Moveables, Wages, and Personal Estate, as he or they might have done before the making of this Act.

C H A P. IV.

An Act for affirming of former Judgments, and providing for Executions.

Preamble.

WHEREAS upon Trials had in the late Courts of Judicature within the several Colonies, now by their Majesties Royal Charter united and Incorporated into one Province, by the Name of the Province of the Massachusetts-Bay ; several Judgments were obtained, of which Execution remains to be done, and some others are depending by Appeal, according to the Course and Practice of the Courts then in being :

To the End that there be no Failure of Justice for want of a due Course of Law, for the prosecuting, obtaining and levying of the same :

Be it enacted and ordained by the Governour, Council and Representatives, convened in General Court or Assembly, and by the Authority of the same, That where any Appeal as aforesaid is depending, having not been heard ; every such Appellant shall have a Summons from the Clerk of the Superiour Court, unto the adverse Party, to be served upon him seven Days inclusive before the Court's Sitting, requiring him to appear at the first Superiour Court, to answer the said Appeal ; where the same shall be heard and tried according to former Usage upon the first Evidence and no other : And the Judgment to be

be affirmed or reversed as the Case shall there be judged upon Trial. And if the Appellant neglect to appear, or prosecute his Appeal, the former Judgment shall be affirmed, and Execution awarded accordingly.

And it is further enacted by the Authority aforesaid, That where Judgment has passed in any County Court, or Court of Commissioners, and Execution has not been taken out and levied for satisfying of the same; the Party for whom any Judgment was so given, his Executors or Administrators shall have a Writ of *Scire Facias* from the Clerk of the Inferiour Court of Pleas within the same County in which such Judgment was obtained, unto the adverse Party to appear before the said Court, to shew Cause (if any there be) why Execution should not issue forth. And in Case of Non-appearance, or that sufficient Cause be not shewn to the Court, the former Judgment shall be affirmed, and Execution granted accordingly; the Cost of this Trial to be added unto the same; *Provided*, that the said Writ of *Scire Facias* be served seven Days inclusive before the Court's Sitting.

And be it further enacted by the Authority aforesaid, That after one Year expired next after giving Judgment in any Court of Record within this Province, no Execution for such Judgment shall be issued out, until a Writ of *Scire Facias* hath been granted out of the same Court, and served upon the adverse Party, as is before directed, or left by the Sheriff, his Under-Sheriff or Deputy, at his Dwelling, or Place of usual and last Abode, requiring him to appear and shew Cause (if any he have) why Execution ought not to be done. And upon his Non-appearance, or not shewing of sufficient Cause as aforesaid, the Court shall thereupon award Execution.

No Execution after one Year expired, to be granted without a *Scire facias*.

C H A P. V.

An Act for Regulating the Assize of Cask, and preventing Deceit, in packing of Fish, Beef, and Pork for Sale.

23 *E*t it ordained and enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the first Day of *December* next, all Sorts and Kinds of tight Cask used for any Liquor, Fish, Beef, Pork, or any other Commodities, within this their Majesties Province, shall be of *London Assize*. That is to say, Butts to contain one Hundred and twenty six Gallons; Puncheons, eighty four Gallons; Hogheads, sixty three Gallons; Tearses, forty two Gallons; Barrels, thirty one Gallons and an half: And made of sound well seasoned Timber, and free of Sap. And that fit Persons be appointed from time to time, in all Places needful, to view and gage all such Cask; and such as shall be found of due Assize shall be marked with the Gagers Mark; who shall have for his Pains, *four Pence per Ton*: And every Cooper shall set his distinct Brand Mark on his own Cask; on Penalty of *forty Shillings*. And whosoever shall put to Sale any new Cask, being defective either in Workmanship, Timber, or Assize, as aforesaid; upon Proof thereof made before one Justice of the Peace, he shall forfeit such Cask, and be fined the Sum of *ten Shillings*.

Assize of Cask.

Gagers to be appointed. Cask to be mark'd by the Gager; His Fee. Every Cooper to have a distinct brand Mark. Defective Cask to be forfeited.

And be it further enacted by the Authority aforesaid, That the Justices of the Peace, at their first General Quarter Sessions, to be holden in each respective County within this Province, shall yearly, in every Town needful thereof, choose and appoint a fit Person or Persons, to be Gagers and Packers, and them to swear to the due Execution of their Office: which if any Person so appointed, shall refuse, he shall pay the Sum of *forty Shillings*; and another shall be chosen and appointed in his Stead. And every Gager and Packer shall take Care that all Cask in which he packs Beef, Pork, Mackarel, Fish, or other Goods committed to his Care, be of true and full Assize, and that he pack the same in no other Cask whatsoever; on Penalty of *ten Shillings* for every Cask by him packed, that is or shall be defective in that Respect. And if any of the before mentioned Provisions shall be packed into half Barrels, or Firkins, the same shall be made in Proportion to the Assize aforesaid; and be marked by the Packer.

Quarter Sessions to appoint Gagers and Packers, and swear them.

Penalty of Refusal.

Ten Shillings Penalty for packing in any Cask under Assize.

And for the preventing of Fraud and Deceit in the packing of pickled Fish, Beef and Pork to be put to Sale :

The whole
half and quar-
ter of Meat
to be put up;
and not the
best left out.
Fish to be all
of one Kind.

Four Shillings
per Ton for
packing and
sealing.

Fish and Flesh
for Transpor-
tation to be
searched and
repacked by
the Packer.

Penalty on
Masters and
Mariners pack-
ing any Pro-
visions aboard
unseal'd.

Penalty for
shifting of
Provisions af-
ter sealed.

Provisions
that have lain
three Months
pack'd in the
Summer. to
be reviewed.

Assize of Cask
for Tarr.

4 A. ca. 1.

7 A. ca. 3.

One Half the
Fines and For-
feitures to be
to their Ma-
jesties, and the
other half to
the Informer

Be it further enacted by the Authority aforesaid, That in every Town, where such Goods are pack'd up for Sale, the Gager or Packer of such Town or of the Town wherein they are put to Sale, or shipped, shall see that it be well and orderly performed: *That is to say*, Beef and Pork the whole Half and Quarter, and so proportionably, that the best be not left out; and so Fish and Mackerel, that they be packed all of one Kind; and that all Casks so packed be full, and the Fish sound and well seasoned, setting his Seal on all Casks so packed, and he shall receive of the Owners for so packing, and sealing, *four Shillings per Ton*. And if any such Provisions be put to Sale, or shipped off without the Packer's Mark, they shall be forfeited.

And it is further enacted, That all Sorts of green or pickled Fish, Sturgeon, or Flesh that shall be put up for Transportation to a foreign Market, shall be searched, surveyed and approved by a sworn Packer, who shall take strict Care that the same be put up in tight Cask of full Gage, salted with suitable Salt. And such as shall be so saved, and for its Condition found merchantable, and full, the Packer shall seal with such Brand Mark, as shall be assigned to the Town, and such other Cut-mark added, as may denote the sort of Provision, and time when packed. And all such other Provision as the Packer shall find wholesome and useful, though for its Quality it be not merchantable; he shall cause to be well packed salted, filled, and sealed with the Letter R. and such other Letters as may signify the Town, Specie, and time of packing. And if any Master of a Ship, or other Vessel, or any Officers, or Mariners belonging thereto, shall receive such Provisions not marked and sealed as aforesaid, aboard any of their Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Provisions; and he that owns the Provisions shall forfeit the same. And if any Cooper, or other Person shall shift any Fish or Flesh, either on Board, or on Shore, after the same hath been so sealed and marked by the Packer, and ship and export the same, the Packer having not allowed thereof, and a new sealed and marked the Cask whereinto such Provisions are shifted: All Persons acting, ordering or assisting therein, shall be set in the Pillory, not exceeding one Hour, and shall likewise pay double Damages to Persons wronged thereby.

And it is further enacted by the Authority aforesaid, That where any such Provisions have lain above three Months under the Packer's Mark, betwixt the Months of *May* and *October*, they shall again, upon Exportation or Sale, be viewed or searched by the Packer. *That is to say*, so many of them as may probably discover the Condition of the whole; and if any be decayed or deceitfully dealt with, the Packer shall cull and repack the same, so as to distinguish and mark them for Merchantable, or Refuse, according to their Condition. And if those who ship or export any such Provision, shall neglect or refuse such second Search or Survey, the Packer is hereby ordered and impowered to deface his former Mark, and for so doing, shall be paid as if he had repack'd the same. And if the Owner refuse to satisfy the Packer, such Packer shall have Redress on Complaint to any Justice of the Peace; who is hereby impowered to compel the Payment thereof by Distress.

And it is further enacted by the Authority aforesaid, That all Tarr that shall be exposed to Sale within this Province, shall be in Barrels, half Barrels, and thirds of a Barrel, of the Measure and Assize following: *That is to say*, The Barrel to contain thirty Gallons, the half Barrel and third of a Barrel, of the same Gage proportionably, and in no other Cask whatsoever. And all Cask to be made of the same Assize, and branded by the Cooper as aforesaid; on pain of Forfeiture of all such Cask as are not of due Assize. And if any Tarr shall be exposed to Sale in any Cask not branded as aforesaid, the same shall be likewise forfeited.

And further it is enacted by the Authority aforesaid, That all Fines, Penalties and Forfeitures arising by Force and Virtue of this Act, shall be the one half to their Majesties, towards the Support of the Government of this Province, and

and the other half to him or them that shall inform and sue for the same in any of their Majesties Courts of Record within this Province.

Be it further enacted by the Authority aforesaid, That there be a Measurer of Salt and Culler of Fish in every Sea-Port Town within this Province to be appointed as aforesaid, who being likewise Sworn for the faithful Discharge of that Office, shall cull all merchantable Fish, and measure all Salt that shall be imported and sold out of any Ship or other Vessel, and shall have *three half Pence* for every Hoghead of Salt by him so measured, to be paid, the one half by the Buyer, the other half by the Seller. And *one Penny* per Quintal for every Quintal of merchantable Fish by him culled, to be paid, one half by the Buyer, the other half by the Seller.

Measurer of Salt, & Culler of Fish.
4 G. ca. 5.

C H A P. VI.

An Act for the punishing of Criminal Offenders.

26 Be it enacted and ordained by the Governour, Council and Representatives in General Court assembled; and by the Authority of the same, That if any Person or Persons shall prophanely Swear or Curse in the hearing of any Justice of the Peace, or shall be thereof convicted by the Oaths of two Witnesses, or Confession of the Party, before any Justice or Justices of the Peace: Every such Offender shall forfeit and pay unto the Use of the Poor of the Town, where the Offence shall be committed, the Sum of *five Shillings*. And if the Offender be not able to pay the said Sum, then to be set in the Stocks, not exceeding two Hours. And if any Person shall utter more profane Oaths or Curses at the same time, and in hearing of the same Person or Persons, he shall forfeit and pay to the Use aforesaid, the Sum of *twelve Pence* for every Oath or Curse after the first; or be set in the Stocks three Hours.

Cursing and Swearing.
7 & 8 G. 2. ca. 2;

5 W. & M. ca. 4.

Presumption.

Provided, That every Offence against this Law shall be complained of and proved as aforesaid, within thirty Days next after the Offence committed.

Further it is enacted by the Authority aforesaid, That every Person convicted of Drunkenness by view of any Justice of Peace; Confession of the Party, or Oaths of two Witnesses; such Person so convicted, shall forfeit and pay unto the Use of the Poor of the Town where such Offence is committed, the Sum of *five Shillings* for every such Offence: And if the Offender be unable to pay the said Sum, to be set in the Stocks, not exceeding three Hours; at the Discretion of the Justice or Justices, before whom the Conviction shall be. And upon a second Conviction of Drunkenness, every such Offender, over and above the Penalty aforesaid, shall be bound with two Sureties in the Sum of *ten Pounds*, with Condition for the good Behaviour: And for want of such Sureties, shall be sent to the common Goal, until he find the same.

Drunkenness,
7 Wm. ca. 2.
and 10.
11 Anne ca. 1.

Provided, That no Person shall be impeached or molested for any Offence against this Act, unless he shall be thereof presented, indicted or convicted within six Months after the Offence committed. And the Justice or Justices before whom Conviction of any of the aforesaid Offences shall be, are hereby empowered and authorized to restrain or commit the Offender, until the Fine imposed for such Offence, be satisfied; or to cause the same to be levied by Distress, and Sale of the Offenders Goods, by Warrant directed to the Constable; returning the Overplus (if any be.) All such Fines to be levied within one Week next after such Conviction, and delivered to the Select-Men, or Overseers of the Poor, for the Use of the Poor as aforesaid.

Proviso.

It is further enacted and ordained by the Authority aforesaid, That whosoever shall Steal or Purloin any Money, Goods or Chattels, being thereof convicted, by Confession, or sufficient Witness upon Oath: Every such Offender, shall forfeit treble the Value of the Money, Goods or Chattels so stolen or purloined, unto the Owner or Owners thereof; and be further punished, by Fine or Whipping; at the Discretion of the Court or Justices that have Cognizance

Theft.
3 Geo. ca. 3.

Criminal Offenders.

of such Offence; not exceeding the Sum of *five Pounds*, or twenty Stripes. And if any such Offender be unable to make Restitution, or pay such threefold Damages, such Offender shall be enjoined to make Satisfaction by Service: and the Prosecutor shall be, and hereby is impowered to dispose of the said Offender in Service to any of their Majesties Subjects, for such Term as shall be assigned by the Court or Justices before whom the Prosecution was. And every Justice of Peace in the County where such Offence is committed, or where the Thief shall be apprehended, is hereby authorized to hear and determine all Offences against this Law. *Provided*, That the Damage exceed not the Sum of *forty Shillings*.

Burglary and Robbery.

1 Geo. ca. 1.

And if any Person shall commit Burglary, by breaking up any Dwelling-House, Ware-House, Shop, Mill, Malt-House, Barn, Out-House, or any Ship or other Vessel lying within the Body of the County; or shall rob any Person in the Field or Highways; every Person so offending, shall upon Conviction be branded on the Forehead with the Letter B. And upon a second Conviction, shall be set upon the Gallows for the Space of one Hour, with a Rope about his Neck, and one End thereof cast over the Gallows; and be severely whipt, not exceeding thirty nine Stripes: And upon a third Conviction of the like Offence, shall suffer the Pains of Death, as being incorrigible; and shall likewise upon the first and second Convictions, pay treble Damages to the Party injured, as is provided in Case of Theft.

Fornication.

Reputed Father of a Bastard.

And it is further enacted by the Authority aforesaid, That if any Man commit Fornication with any single Woman, upon due Conviction thereof, they shall be fined unto their Majesties, not exceeding the Sum of *Five Pounds*, or be corporally punished by Whipping, not exceeding ten Stripes a Piece, at the Discretion of the Sessions of the Peace, who shall have Cognizance of the Offence. And he that is accused by any Woman, to be the Father of a Bastard Child begotten of her Body; she continuing constant in such Accusation, being examined upon Oath, and put upon the Discovery of the Truth in the Time of her Travail; shall be adjudged the reputed Father of such Child, notwithstanding his Denial; and stand charged with the Maintenance thereof, with the Assistance of the Mother; as the Justices in the Quarter Sessions shall order; and give Security to perform the said Order, and to save the Town or Place where such Child is born, free from Charge for its Maintenance; and may be committed to Prison, until he find Sureties for the same: unless the Pleas and Proofs made and produced on the Behalf of the Man accused, and other Circumstances be such as the Justices shall see Reason to judge him innocent, and acquit him thereof, and otherwise dispose of the Child. And every Justice of the Peace upon his Discretion, may bind to the next Quarter Sessions, him that is charged or suspected, to have begotten a Bastard Child: And if the Woman be not then delivered, the Sessions may order the Continuance or Renewal of his Bond, that he may be forth-coming when the Child is born.

Power of the Justice of Peace.

Breach of the Peace.

Forceable Entry & Detainer.

Further it is enacted by the Authority aforesaid, That every Justice of the Peace in the County where the Offence is committed, may cause to be staid and arrested all Affrayers, Rioters, Disturbers or Breakers of the Peace, and such as shall ride, or go armed offensively before any of their Majesties Justices, or other their Officers or Ministers doing their Office, or elsewhere, by Night or by Day, in Fear or Affray of their Majesties Leige People; and such others as shall utter any Menaces or threatening Speeches: And upon View of such Justice or Justices, Confession of the Party, or other legal Conviction of any such Offence, shall commit the Offender to Prison, until he find Sureties for the Peace and good Behaviour; and seize and take away his Armour or Weapons, and shall cause them to be apprized and answered to the King as forfeited: And may further punish the Breach of the Peace in any Person that shall smite or strike another, by Fine to the King, not exceeding *twenty Shillings*; and require Bond with Sureties for the Peace; or bind the Offender over to answer it at the next Sessions of the Peace, as the Nature or Circumstance of the Offence may be; and may make Enquiry of forcible Entry and Detainer, and cause the same to be

Criminal Offenders.

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be removed; and make out Hue and Cries after Runaway Servants, Thieves ^{12. & 13 W. ca. 1.} and other Criminals.

And it is further enacted by the Authority aforesaid, That if any Person or Persons of the Age of Discretion (which is accounted fourteen Years, or upwards,) shall wittingly and willingly make or publish any Lie or Libel, tending to the Defamation or Damage of any particular Person; make or spread any false News or Reports, with Intent to abuse and deceive others: Every such Person or Persons offending in any of the Particulars before mentioned, and being duly convicted thereof, before one or more Justices of the Peace, shall be fined according to the Degree of such Offence; not exceeding the Sum of *twenty Shillings* for the first Conviction, and find Sureties for the good Behaviour. And if the Party be unable to pay the said Fine, then to be set in the Stocks, not exceeding three Hours; or be corporally punished by Whipping, at the Discretion of the Justice or Justices, before whom the Conviction shall be; according as the Circumstances or Nature of the Offence shall be. And the said Justice or Justices may restrain and commit the Offender, until he pay the said Fine, and find Sureties for the good Behaviour; or may cause the Fine to be levied by Distress and Sale of the Offenders Goods. And the Party or Parties grieved or injured by Reason of any of the Offences aforesaid; shall or may take his or their Suit against any such Offender or Offenders in any Court of Record.

Lying and Libelling.

It is further enacted by the Authority aforesaid, That if any Person or Persons upon his or their own Head or Imagination, or by false Conspiracy and Fraud with others shall wittingly, subtilly and falsely forge or make; or subtilly cause, or wittingly assent to be forged or made any false Deed, Conveyance or Writing sealed, or the Will of any Person or Persons in Writing, to the Intent that the State of Freehold or Inheritance, Right, Title or Interest of any Person or Persons of, in, or to any Lands, Tenements or Hereditaments, shall or may be molested, troubled, defeated, recovered or charged; or shall as is aforesaid, forge, make, or cause, or assent to be made, or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Release, or other Discharge of any Debt, Accompt, Action, Suit, Demand, or other Thing personal; Or if any Person or Persons shall pronounce, publish, or shew forth in Evidence, any such false and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Release or Discharge, as true, knowing the same to be false and forged, as is aforesaid, to the intent above remembred; and shall be thereof convicted, either upon Action or Actions of Forger of false Deeds, to be founded upon this Act at the Suit of the Party grieved, or otherwise according to the Order and due course of Law, or upon Bill or Information. That then every such Offender shall pay unto the Party grieved his double Costs and Damages, to be found and assessed in such Court where the said Conviction shall be; and also shall be set upon the Pillory in some Market Town, or other open Place, and there to have one of his Ears cut off; and also shall have and suffer Imprisonment by the Space of one whole Year, without Bail or Mainprize. And the Party or Parties grieved by Reason of any of the Offences aforesaid, may take his or their Suit against any such Offender or Offenders, in any Court of Record; where no Essoign, Injunction or Protection shall be allowed the Party Defendant.

Forgery.

5 Eliz. Act of Parliament.

Provided always, and it is enacted by the Authority aforesaid, That this Act or any Thing therein contained, shall not extend to charge any Judge of Probate, or Register, with any the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited unto them, not knowing the same to be false or forged, for writing of the said Will or Probate of the same; Nor to any other Person or Persons that shall shew forth or give in Evidence any false or forged Writing for true or good, being not Party or privy to the forging of the same, nor knowing the same to be false or forged; any Thing in this Act to the contrary notwithstanding.

And it is further enacted and ordained by the Authority aforesaid, If any Person or Persons, either by the Subornation, unlawful Procurement, Reward, sinister Perswasion, or Means of any other; or by their own Act, Consent or Agreement,

Willful Perjury.

Unlicensed Houses.

Agreement, shall wilfully and corruptly commit any Manner of wilful Perjury, by his or their Deposition in any Court of Record, or being examined *Ad perpetuam rei memoriam*, That then every Person and Persons so offending, and being thereof duly convicted, or attainted by Law, shall for his or their Offence, lose and forfeit *twenty Pounds*; the one Moiety thereof unto their Majesties, and the other Moiety to such Person or Persons as shall be grieved, hindred or molested by Reason of any such Offence, that shall sue for the same by Action of Debt, Bill, Plaint, Information, or otherwise in any Court of Record; in the which no Wager of Law, Essoign, Protection, or Injunction to be allowed: And also to have Imprisonment by the Space of six Months, without Bail or Mainprize. And the Oath of such Person or Persons so offending, not to be received in any Court of Record, until such time as the Judgment given against the said Person or Persons, shall be reversed by Attaint or otherwise; and upon every such Reversal, the Parties aggrieved to recover his or their Damages against all and every such Person and Persons, as did procure the said Judgment so reversed, to be given against them or any of them, by Action, or Actions, upon his or their Case or Cases; according to the Course of the common Law.

And if it happen the said Offender or Offenders, so offending, not to have any Goods or Chattels, to the Value of *Twenty Pounds*, that then he or they be set on the Pillory by the Space of one whole Hour, in some Market Town where the Offence was committed, or next adjoining to the Place where the Offence was committed, and to have both his Ears nailed; and from thenceforth to be discredited and disabled for ever to be Sworn in any Court of Record, until such time as the Judgment shall be reversed.

And all and every Person and Persons who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever; to commit any wilful and corrupt Perjury, in any Matter or Cause whatsoever depending; or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint or Information in any Court of Record; or to testify in *Perpetuam rei memoriam*: Every such Offender, being thereof duly convicted or attainted by Law, shall for his or their Offence be proceeded against, and suffer the like Pains, Penalties, Forfeitures, and Disability in all Respects as above-mentioned.

And it is further enacted by the Authority aforesaid, That all the aforesaid Forfeitures and Sums of Money arising for any Offence mentioned in this Act, and every Branch thereof, and not otherwise disposed of; shall be unto their Majesties, for and towards the Support of the Government of this Province, and the incident Charges thereof.

C H A P. VII.

None to keep a House of common Entertainment, or sell strong Drink publicly or privately without Licence, on Penalty of 40s. One Half to the Informer, and the other to the Use of the Poor.

An Act for the suppressing of Unlicensed Houses, and the due Regulation of such as are, or shall be Licensed.

WH^{ere} it ordained and enacted by the Governour, Council and Representatives convened in General Court, and by the Authority of the same, That no Person or Persons whatsoever (other than such as upon producing Certificate from the Select-men of the Town where they dwell, or who shall be otherwise thought fit by the Justices themselves, shall be licensed by the said Justices in Quarter Sessions) may presume to be a common Victualler, Innholder, Taverner, or Seller of Wine, Beer, Ale, Cyder, or strong Liquors by Retail: nor shall any presume without such Licence, to sell Wine or strong Liquors privately by a less Quantity than a Quarter Cask, and that delivered and carried away all at one time; on pain of forfeiting the Sum of *Forty Shillings* for every such Offence, upon due Conviction thereof; one Half thereof to the Informer, and the other Half to the Use of the Poor of the Town where such Offence is committed. And upon a second Conviction, besides the Forfeiture of *Forty Shillings* as aforesaid, shall enter into Recognizance with one or more Sureties, for the good Behaviour, especially not to transgress the Law in that Respect.

7 W. ca. 2 10
11 A. ca. 1.
7 G. c. 8
Upon second Conviction, to give Bond for the good Behaviour.

Keeping the Lord's Day.

13

It is further enacted by the Authority aforesaid, That all Licences be renewed yearly, and Bond given for the due Observance of the same; and of the Laws; and that the Person licensed shall use his Licence in such Houses as shall be therein named, and no other.

Licences to be renewed yearly and Bond given.

And if the Justices in Quarter Sessions shall think fit to Licence any Person or Persons not presenting a Certificate as aforesaid from the Select-men, the Clerk of the Sessions, before granting Licence to any such, shall signify the Name and Desire of every such Person unto the Select-men of the Town where such Person dwells, one Month before Hand, that so they may have Opportunity and Liberty to offer their Objections against it, if any such be.

Justices may grant Licence without Certificate of the Select-Men upon Notice given.

And forasmuch as the ancient, true and principal Use of Inns, Taverns, Ale-Houses, Victualling Houses, and other Houses for common Entertainment, is for Receipt, Relief and Lodging of Travellers and Strangers, and the Refreshment of Persons upon lawful Business; or for the necessary Supply of the Wants of such poor Persons as are not able by greater Quantities to make their Provision of Victuals: and are not intended for Entertainment and harbouring of lewd or idle People to spend or consume their Money or Time there:

10 W. ca. 8. Games and Gaming forbidden in publick Houses, on pain of 4s. Penalty on Gamesters.

Therefore to prevent the Mischiefs and great Disorders happening daily by the abuse of such Houses:

It is further enacted by the Authority aforesaid, That no Taverner, Inn-keeper, Ale-House-keeper or Victualler, shall have or keep in or about their Houses, Out-Houses, Yards, Backsides, Gardens or Places to them belonging, any Dice, Cards, Tables, Bowls, Shuffle-board, Billiards, Coys, Cales, Logats, or any other Implements used in Gaming; nor shall suffer any Person or Persons resorting unto any of their Houses, to use or exercise any of the said Games, or any other unlawful Game or Sport within their said Houses, or any of the Dependencies as aforesaid, or Places to them belonging; on pain of forfeiting the Sum of Forty Shillings for every such Offence, upon due Conviction thereof; the said Fine to be disposed of as aforesaid. And every Person convicted of playing as aforesaid in any such House or Dependencies thereof, shall forfeit the Sum of Six Shillings and Eight Pence, to be disposed of as aforesaid.

5 W. & M. ca. 4.

And further it is enacted by the Authority aforesaid, That any Person duly summoned to give in Evidence respecting the Breach of this Act, in any of the Branches thereof, (other than the Party himself, his Children or Servants) that shall refuse to give in upon his Oath, when so required, what he knows relating to the Premises, shall forfeit Forty Shillings to the Use of the Poor of the Town as aforesaid.

Penalty for refusing to give Evidence against Persons selling without Licence. Act for suppressing of Drunkenness.

And it is further enacted by the Authority aforesaid, That every Justice of the Peace in the County where he dwells, as well as the Justices in Quarter Sessions, are hereby respectively impowered to hear and determine all Offences against this Act, and may commit the Offender to Prison, until he pay the said Fine, and enter into Recognizance as aforesaid for the good Behaviour; or may cause the Fine to be levied by Distress and Sale of the Offenders Goods, returning the Overplus, if any be.

7 W. ca. 2. & 10. And an Act for the inspecting and suppressing Disorders in licensed Houses. 10 W. ca. 8.

C H A P. VIII.

An Act for the better Observation and Keeping the Lord's Day.

It is enacted and ordained by the Governour, Council and Representatives, convened in General Court or Assembly, and it is enacted by the Authority of the same, That all and every Person and Persons whatsoever, shall on that Day carefully apply themselves to Duties of Religion and Piety, publickly and privately; and that no Tradesman, Artificer, Labourer or other Person whatsoever, shall upon the Land or Water, do or exercise any Labour, Business or Work of their ordinary Callings; nor use any Game, Sport, Play or Recreation on the Lord's Day, or any Part thereof; (Works of Necessity and Charity only excepted) upon pain that every Person so offending, shall forfeit Five Shillings.

Labour and Sports prohibited on Penalty of 5 s. 3 G. ca. 1.

Further

Keeping the Lord's Day.

Travelling
prohibited
on Penalty of
20 s.

Further it is ordered and declared, That no Traveller, Drover, Horse-Courser, Waggoner, Butcher, Higler, or any their Servants, shall travel on that Day, or any Part thereof, except by some Adversity they were belated and forced to lodge in the Woods, Wilderness or High-ways, the Night before; and in such Case, to travel no further than the next Inn or Place of Shelter, on that Day, upon the Penalty of *Twenty Shillings*.

Public Houses
not to en-
tertain any o-
thers than
Strangers and
Lodgers, on
Penalty of 5 s.
for every Per-
son.
10 W. ca. 8.
5 W & M c 4.

Further it is ordered, That no Vintner, Innholder, or other Person keeping any publick House of Entertainment, shall entertain or suffer any of the Inhabitants of the respective Towns where they dwell, or others not being Strangers, or Lodgers in such Houses, to abide or remain in their Houses, Yards, Orchards, or Fields drinking, or idly spending their Time on Saturday Night after the Sun is set, or on the Lord's Day, or the Evening following; upon the Pain and Penalty of *Five Shillings* for every Person, payable by themselves respectively, that shall be found so drinking or abiding in any such publick House or Dependencies thereof as aforesaid; and the like Sum of *Five Shillings* to be paid by the Keeper of such House, for every Person entertained by them.

One Justice of
the Peace may
hear and de-
termine any
Breach of this
Act.

And for the better Execution of all and every the foregoing Orders, every Justice of the Peace within his County shall have Power and Authority to convene before him, any Person or Persons, who shall offend in any of the Particulars before mentioned, and upon his own View, or other legal Conviction of any such Offence, to impose the Fine and Penalty for the same, and to restrain or commit the Offender until it be satisfied; or to cause the same to be levied by Distress and Sale of the Offenders Goods, returning the over-plus (if any be) and in Case any such Offender be unable or refuse to satisfy such Fine, to cause him to be put in the Cage, or set in the Stocks, not exceeding three Hours: All Fines and Penalties accruing by this Act, to be to the Benefit and Relief of the Poor of such Town where the Offence is committed; and delivered into the Hands of the Select-men or Overseers of the Poor for that End.

Fines for
Breach of
this Act to be
to the Use of
the Poor.

And all Masters and Governours of Families are hereby required to take effectual Care that their Children, Servants and others under their immediate Government, do not transgress in any of the foregoing Particulars.

Justices, Con-
stables, &c.
required to see
that this Act
be observed.

And all and every Justices of the Peace, Constables and Tythingmen, are required to take effectual Care, and endeavour that this Act in all the Particulars thereof be duly observed; as also to restrain all Persons from Swimming in the Water, unnecessary and unseasonable walking in the Streets or Fields in the Town of *Boston*, or other Places, keeping open their Shops, or following their secular Occasions or Recreations in the Evening preceeding the Lord's Day, or any Part of the said Day or Evening following.

15 G. 2. ca. 3.
11 A. ca. 1.
1 G. 2. ca. 6.
19 G. 2. ca. 3.

And all Persons are strictly required to be obedient to, and aiding and assisting such Justices, Constables and other Officers herein, as they will answer the contrary at their Peril.

Resolves a-
bout the Act
for the better
Observation
of the Lord's
Day.

[At a Great and General Court or Assembly for her Majesty's Province of the Massachusetts-Bay in New-England begun and held at Boston upon Wednesday the thirty-first of May 1704. The following Resolves were drawn up and passed, viz. Whereas a Doubt or Question has been moved upon the first Paragraph in the Act for the better Observation of the Lord's Day; viz. Whether the Penalty therein expressed extends to both Parts of the said Paragraph?

Resolved, That the said Penalty or Fine of Five Shillings, extends to both Parts of the said Paragraph; and is so to be understood.

Further Resolved, That by the Power of Restraint given by the latter Paragraph of the said Act; such Restraint is intended and to be understood of Imprisonment, not exceeding the space of twelve Hours; by setting in the Cage or Stocks, not exceeding three Hours; upon any that shall presumptuously and obstinately offend in any of the Particulars or Articles therein enumerated, contrary to any Admonition given by any Justice of the Peace, Constable, Tythingman, or other Officer.]

C H A P. IX.

An Act for Prevention of common Nuisances arising by Slaughter-Houses, Still-Houses, &c. Tallow-Chandlers, and Curriers.

25 E it ordained and enacted by the Governour, Council and Representatives, convened in General Court or Assembly, and by the Authority of the same, That the Select-men of the Towns of *Boston, Salem* and *Charlestown* respectively, or other Market Towns in the Province, with two or more Justices of the Peace dwelling in the Town, or two of the next Justices in the County, shall at or before the last Day of *March*, one Thousand six Hundred ninety three, assign some certain Places in each of the said Towns (where it may be least offensive) for the erecting or setting up of Slaughter-Houses, for the killing of all Meat; Still-Houses, and Houses for trying of Tallow, and currying of Leather, (which Houses may be erected of Timber, the Law referring to Building with Brick or Stone notwithstanding.) And shall cause an Entry to be made in the Town Book, of what Places shall be by them so assigned, and make known the same by posting it up in some public Places of the Town. At which Houses and Places respectively, and no other, all Butchers and Slaughter-men, Distillers, Chandlers and Curriers, shall exercise and practise their respective Trades and Mysteries; on Pain that any Butcher or Slaughter-man transgressing of this Act by killing of Meat in any other Place, for every Conviction thereof, before one or more Justices of the Peace, shall forfeit and pay the Sum of *twenty Shillings*. And any Distiller, Chandler or Currier, offending against this Act, for every Conviction thereof before their Majesties Justices at the General Sessions of the Peace for the County, shall forfeit and pay the Sum of *Five Pounds*; one third Part of the said Forfeitures to be to the Use of their Majesties, for the Support of the Government of the Province, and the incident Charges thereof; one third to the Poor of the Town, where such Offence shall be committed; and the other third to him or them that shall inform and sue for the same.

8 W. ca. 6.
7 A. ca. 1.
9 A. ca. 7.
Slaughter-Houses, Still-Houses, &c. to be in certain Places assigned, and in no other.
13 G. ca. 9.
14 G. 2. ca. 2.
8 A. ca. 3.
5 W. & M. ca. 8.
10 W. ca. 1.
7 & 8 G. 2. ca. 3.
4 W. & M. ca. 1.

And for preventing of Cruelty to Bruit Creatures :

It is further enacted by the Authority aforesaid, That all Calves, Sheep or Lambs, brought alive to the Market, shall be either driven or carried in Carts, Sleds, Panniers or Boats, and not otherwise; on pain of forfeiting of all Calves, Sheep or Lambs, passing towards, or brought alive to the Market, laid across, or hanging by the Sides of Horses, (as has been usual) or in any other Way contrary to the true intent of this Act: One half of all such Forfeitures to be unto the Informers, who shall seize and prosecute for the same; and the other Moiety to the Use of the Poor of the Town, where such Seizure shall be made, to be distributed by the Select-men or Overseers of the Poor.

Cruelty to Bruit Creatures forbid.

And all Select-men, Overseers of the Poor, Constables, Tything-men, and other Officers in any Town, upon their own View, or Information of any Transgression of this Act within their respective Precincts, shall and hereby are empowered to seize or cause to be seized all Calves, Sheep or Lambs, that shall be carried or brought alive to the Market, in any other Way than is before directed. And upon due Proof thereof made before one or more Justices of the Peace, shall be forfeited, and the same or the Value thereof, be disposed of as aforesaid.

Select-men, Constables, &c. empowered to seize.

And all Veal or other Meat exposed to Sale, that shall be blown up or wind-ed, shall be alike forfeited and disposed of.

Flesh blown or wind-ed to be forfeited.

C H A P. X.

An Act for the orderly consummating of Marriages.

Justices or
Ministers re-
spectively to
solemnize
Marriages
7 W. ca. 6.
3 G. ca. 4.
Publishment
how to be
made.

WHERE it ordained and enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Justice of the Peace within the County where he resides, and every settled Minister in any Town, shall, and are hereby respectively impowered and authorized to solemnize Marriages, within their respective Towns and Counties, betwixt Persons that may lawfully enter into such a Relation, having the Consent of those whose immediate Care and Government they are under, and being likewise first published by asking their Banns at three several publick Meetings in both the Towns where such Parties respectively dwell; or by posting up their Names and Intentions at some publick Place in each of the said Towns, fairly written, there to stand by the space of fourteen Days; and producing Certificate of such Publishment under the Hand of the Town Clerk or Constable of such Towns respectively.

Fee for Mar-
riage, &c.
3 G. ca. 4.

And the Fee to be paid for every Marriage, shall be *three Shillings*; and for Publishment and Certificate thereof, *one Shilling*.

Penalty for
pulling down
Publishments.

And be it further enacted, That whoever shall presume to deface or pull down any such Publishment, posted up in Writing, before the Expiration of the Time, shall be fined to the Use of the Poor of the Town, the Sum of *ten Shillings*, being convicted thereof, before one or more Justices of the Peace: And if the Party be unable to pay the said Fine, then to be set in the Stocks one whole Hour.

Marriages to
be registred.
7 W. ca. 6.

And every Justice and Minister shall keep a particular Register of all Marriages solemnized before any of them, and make a return thereof at the End of each Quarter of a Year unto the Clerk of the Sessions of the Peace within the same County, to be by him registred; who is hereby impowered thereto, and shall be paid by every such Justice and Minister, *three Pence* for each Marriage so returned.

Divorce.
1 G. 2. ca. 8.
6 W. & M. ca. 4.
10 W. ca. 10.
4 A. ca. 6.

And it is further enacted by the Authority aforesaid, That all Controversies concerning Marriage and Divorce, shall be heard and determined by the Governour and Council.

C H A P. XI.

An Act for the Settlement and Support of Ministers and School-Masters.

Contracts and
Agreements
to be made
good.

WHERE it ordained and enacted by the Governour, Council and Representatives convened in General Court or Assembly, and by the Authority of the same, That the Inhabitants of each Town within this Province shall take due Care from time to time, to be constantly provided of an able, learned orthodox Minister or Ministers of good Conversation, to dispense the Word of God to them; which Minister or Ministers shall be suitably encouraged and sufficiently supported and maintained by the Inhabitants of such Town. And all Contracts, Agreements and Orders heretofore made, or that shall hereafter be made by the Inhabitants of any Town within this Province respecting their Ministers or School-Masters, as to their Settlement or Maintenance, shall remain good and valid according to the true intent thereof, the whole time for which they were or shall be made, in all the Particulars thereof, and shall accordingly be pursued, put in Execution and fulfilled. And where there is no Contract and Agreement made in any Town, respecting the Support and Maintenance of the Ministry; or when the same happens to be expired, and the Inhabitants of such Town shall neglect to make suitable Provision therein; upon Complaint thereof made unto the Quarter Sessions of the Peace for the County where such Town lies; the said Court of Quarter Sessions

Neglect of
making suitable
Provision
for Ministers
to be redressed
by the
Quarter Ses-
sions.

County Treasurer and Charges.

17

Sessions shall, and hereby are impowered to order a competent Allowance unto such Minister, according to the Estate and Ability of the Town; the same to be assessed upon the Inhabitants by Warrant from the Court, directed to the Select-men, who are thereupon to proceed to make and proportion such Assessment in manner as is directed for other publick Charges, and to cause the same to be levied by the Constables of such Town, by Warrant under the Hands of the Select-men; or of the Town-Clerk by their Order.

Be it further enacted by the Authority aforesaid, That where any Town shall be destitute of a Minister qualified as aforesaid, and shall so continue by the space of six Months, not having taken due Care for the procuring, settling and Encouragement of such Minister, the same being made to appear upon Complaint unto their Majesties Justices at the General Sessions of the Peace for the County, the said Court of Quarter Sessions shall, and hereby are impowered to make an Order upon every such defective Town, speedily to provide themselves of such Ministers as aforesaid, by the next Sessions at the furthest; and in case such Order be not complied with, then the said Court shall take effectual Care to procure and settle a Minister qualified as aforesaid, and order the Charge thereof, and of such Minister's Maintenance, to be levied on the Inhabitants of such Town.

And it is further enacted by the Authority aforesaid, That the respective Churches in the several Towns within this Province, shall at all times hereafter, use, exercise and enjoy all their Privileges and Freedoms respecting divine Worship, Church Order and Discipline. And shall be encouraged in the peaceable and regular Profession and Practice thereof.

And be it further enacted by the Authority aforesaid, That every Town within this Province having the Number of fifty Householdors or upwards, shall be constantly provided of a School-Master to teach Children and Youth to read and write. And where any Town or Towns have the Number of one Hundred Families or Householdors, there shall also be a Grammar School set up in every such Town, and some discreet Person of good Conversation, well instructed in the Tongues, procured to keep such School: Every such School-Master to be suitably encouraged and paid by the Inhabitants.

And the Select-men and Inhabitants of such Towns respectively, shall take effectual Care, and make due Provision for the Settlement and Maintenance of such School-Master and Masters.

And if any Town qualified as before express'd, shall neglect the due Observance of this Act, for the procuring and settling of any such School-Master as aforesaid, by the space of one Year: Every such defective Town shall incur the Penalty of *ten Pounds* for every Conviction of such Neglect, upon Complaint made unto their Majesties Justices in Quarter Sessions for the same County in which such defective Town lieth; which Penalty shall be towards the Support of such School or Schools within the same County, where there may be most need, at the Discretion of the Justices in Quarter Sessions; to be levied by Warrant from the said Court of Sessions in Proportion upon the Inhabitants of such defective Town, as other publick Charges, and to be paid unto the County Treasurer.

4 & 5 W. & M.
ca. 20.
7 Wm. ca. 9.
1 Anne ca. 3.
3 & 4 G. ca. 1.
16 G. 2. ca. 1.

The Court of Quarter Sessions to take Care that no Town be destitute of a Minister.

Churches to enjoy their Privileges & Freedoms.

School for reading and writing.

Grammar School.

School Masters to be supported.
13 W. ca. 20.
4 G. ca. 2.

Penalty for Neglect.
13 W. ca. 20.
4 G. ca. 7.
11 A. ca. 1.

C H A P. XII.

An Act for the Settlement of the Bounds, and defraying of the publick and necessary Charges arising within each respective County in this Province.

BE it ordained and enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That all Counties as they now lie, and are named, continue and remain distinct Counties to all Intents and Purposes in the Law whatsoever. And that there be a County Treasurer annually chosen for each respective County, being a Freeholder within the same; and to be chosen by

Counties to continue as formerly.

Townships and Town-Officers.

Choice of
County
Treasurer.

the Votes of the Frecholders, and other Inhabitants of each respective Town, duly qualified as is provided by the Act for the Choice of Select-men, and other Town Officers; and at the same time, such Votes to be given in Writing, and sealed up by the Constable, by him to be kept and returned unto the next Quarter Sessions, to be held for said County, there to be opened and sorted by such as the Court shall appoint, in Presence of the Justices; and the Person having the Majority of the said Votes, shall be Treasurer of such County for that Year, and be Sworn before the said Court.

And for the due and equal raising of Monies for defraying of the Charges arising within each respective County for the necessary Repairs and Amendment of Bridges, Prisons, the Maintenance of poor Prisoners, and all other proper County Charges :

County Char-
ges how to
be defrayed.

It is further enacted by the Authority aforesaid, That when and so often from time to time as there shall be need of raising Money for the Ends aforesaid in any County, the Justices in Quarter Sessions for such County, receiving Information thereof from the County Treasurer, shall agree and determine the whole Sum to be raised, and each respective Towns Proportion of the same, as near as may be according to the Rule for raising of Money for the Province Charges, and shall issue forth their Order unto the Select-men of the respective Towns to assess the same upon the Inhabitants of such Town, each one his due and equal Proportion thereof according to the Rule before-mentioned, as near as may be, to be paid in Money, or equivalent thereto; and to make a distinct List of each Person's Name and Proportion under their Hands; and such List commit unto the Constable or Constables of such Town, with a Warrant signed by the Town Clerk, directed unto the said Constable or Constables to levy and collect the said Assessment, of each one his respective Proportion: And to pay in their said Collections unto the County Treasurer, or his Order, within the time set for the same: And to make Distress upon every Person neglecting or refusing to make Payment: And in default of Goods or Chattels whereon to make Distress, to commit the Party to the common Goal of the County until he make Payment, or otherwise be released by the Justices in Quarter Sessions. And if any Person or Persons think themselves over-rated in any such Assessment, they shall be eased by the Assessors, making the same to appear; or in Default thereof, by the Court of Quarter Sessions.

Money how
to be applied.

Treasurer to
Account.
9 d. ca. 5.

And further it is enacted, That all Monies so collected, be improved and employed for the Ends within mentioned, as the Court of Quarter Sessions shall from time to time by their Order in Writing, direct and appoint. And the County Treasurer in each respective County, shall account unto the Court of Quarter Sessions, or whom they shall appoint, for all his Receipts and Payment.

C H A P. XIII.

An Act for regulating of Townships, Choice of Town-Officers, and setting forth their Power.

BE it ordained and enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same,

Bounds of
Townships
to continue
as heretofore
granted and
settled: And
to be run, and
Marks renew-
ed once in 3
Years under a
Penalty

That the Bounds of all Townships shall be, and continue as heretofore granted and settled respectively, and shall be run betwixt Town and Town, and Marks renewed once in three Years, by two of the Select-men of each Town, or any other two Persons whom the Select-men shall appoint: The Select-men of the most ancient Town to give Notice unto the Select-men of the next adjacent Towns, of the Time and Place of meeting for such Perambulation, six Days before-hand; on pain of forfeiting *Five Pounds* by the Select-men of any Town, that shall neglect their Duty in any of the Particulars aforesaid: two Thirds thereof unto the Use of the Poor of such Town; and the other Third unto the Select-men of any of the next adjacent Towns, that shall inform and sue for the same, in the Inferiour Court of Pleas within the same County, to be recovered by Action or Information.

And

Townships and Town-Officers.

19

And be it further enacted by the Authority aforesaid, That each Proprietor of Lands lying unfenced, or in any common Field, shall once in two Years, on six Days warning before given him, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Bounds between them, by sufficient met Stones; on pain that every Party so neglecting or refusing, shall forfeit the Sum of *ten Shillings*: one Half to the Party moving, and the other Half to the Use of the Poor of the Town, being convented and convicted of such Neglect or Refusal, before any Justice of the Peace within the same County; who is hereby empowered to hear and determine the same.

Proprietors of Lands unfenced or in common Fields to run the Lines once in two Years.

And further it is enacted by the Authority aforesaid, That the Proprietors of the undivided or common Lands within each Town and Precinct in this Province, where the same have been heretofore stated, each ones Proportion being known, shall, and hereby are empowered to order, improve or divide in such way and manner as shall be concluded and agreed upon by the major Part of the interested; the Voices to be collected and accounted according to the Interests. And the Proprietors of all undivided or common Lands not stated and proportioned as aforesaid; shall, and hereby are empowered to manage, improve, divide or dispose of the same as hath been, or shall be concluded and agreed on by the major Part of such Proprietors. That no Cottage or Dwelling-Place in any Town, shall be admitted to the Privilege of Commonage of Woods, Timber and Herbage, or any other the Privileges which lie in common in any Town or peculiar, other than such as were erected or privileged by the Grant of such Town or peculiar before the Year *One Thousand six Hundred sixty and one*, or that have been since, or shall hereafter be granted by the Consent of any Town or peculiar.

Some more Lands how to be improved:

And whereas it has been a continued Practice and Custom in the several Towns within this Province, annually to choose Select-men or Townsmen, for the ordering and managing of the Prudential Affairs of such Town, and other Town Officers for the executing of other Matters and Things in the Laws appointed by them to be done and performed:

Be it further ordained and enacted by the Authority aforesaid, That the Freeholders and other Inhabitants of each Town rateable at *twenty Pounds* Estate, to one single Rate besides the Poll; shall some time in the Month of *March* annually meet and convene together upon Notice given by the Constable or Constables of such Town, or such others as the Select-men or Townsmen shall appoint, to give Notice of such Meeting, and the Time and Place for the same: And by the major Vote of such Assembly, then and there shall choose three, five, seven or nine Persons, able and discreet, of good Conversation, inhabiting within such Town, to be Select-men or Townsmen and Overseers of the Poor, where other Persons shall not be particularly chosen to that Office, (which any Town may do as they shall find it necessary and convenient) as also to nominate and choose a Town Clerk, who shall be sworn truly to enter and record all Town Votes, Orders, Grants and Divisions of Land, made by such Town, and Orders made by the Select-men; a Commissioner for Assessments, Constables, Surveyors of High-Ways, Tything-men, Fence-Viewers, Clerks of the Market, Sealers of Leather, and other ordinary Town Officers. And the Town Clerk, or two of the Select-men, shall forthwith make, and give out unto the Constable or Constables of such Town, a List of the Names of those that shall be then chosen to the Office of Town-Clerk, Constables, Tything-men, Clerks of the Market, Sealers of Leather, and other Officers, of whom an Oath is by Law required; which Constable or Constables within the Space of six Days at furthest, shall summon each of them respectively to appear before the Quarter Sessions, if then Sitting, or one of the next Justices of the Peace, to be sworn to the faithful Discharge of their respective Offices and Trust, on Penalty of *Twenty Shillings* to the Use of the Poor of the Town, to be paid by each Constable neglecting of his Duty in that Behalf, upon Conviction thereof before one Justice of the Peace; and upon Non-payment, to be levied by Distress: *Provided*, That no Person in Commission for any Office, Civil or Military, Church-Officer, or Member of the House of Representatives for the

See Resolve at the End of this Act. Qualification of Voters in Town-Meetings.

Select-men Constables & other Town-Officers to be annually chosen in *March*. 27 G. 2. ca. 3. 5 A. ca. 2. Town Clerk to be under Oath.

Constables to summon Town-Officers to be sworn under a Penalty.

Persons exempted from serving as Constables.

Time

Townships and Town-Officers.

Time being, nor any other who has served as Constable within the Space of seven Years before, shall be chosen to the Office of Constable.

Towns or Select-men having Instructions to make Orders and By-Laws, &c.

Orders and By-Laws in Towns, to be approved by the Quarter Sessions.

Penalty to be levied by Warrant from a Justice

Select-Men to make Assessment for County and Town-Charges.

Affessors or Town-Clerk to make out a Warrant for levying the same.

9 A. ca. 5.

Distress to be made on Delinquents.

Persons over-rated to be eased. Constables to settle & issue their Accompts within 3 Months after the expiration of their Year.

See Act relating to Town Assessments. 9 W. ca. 1.

Idle Persons & Loiterers to be employed.

It is further enacted by the Authority aforesaid, That the Freeholders and Inhabitants qualified as in this Act is mentioned in each respective Town, in any Town-Meeting, orderly warned according to the Usage in such Town, or the major Part so assembled, or the Select-men having Instructions given them in Writing by the Town for that Purpose; be, and hereby are impowered from time to time to make and agree upon such necessary Rules, Orders and By-Laws for the directing, managing and ordering the prudential Affairs of such Town, as they shall judge most conducing to the Peace, Welfare and good Order thereof; and to annex Penalties for the Observance of the same, not exceeding *twenty Shillings* for one Offence, provided that they be not repugnant to the general Laws of the Province: and such Orders and By-Laws being presented unto the Justices in Quarter Sessions, and approved of by them, shall be established, and binding to all the Inhabitants of such Town, and the Penalty for Breach of any of them by any of the Inhabitants, to be levied by Warrant of Distress from any Justice of the Peace before whom such Offender shall be convicted, to the Use of the Poor of such Town.

And further it is enacted by the Authority aforesaid, That the Select-men or Townsmen chosen as aforesaid, in each Town respectively, be and hereby are impowered to assess the Inhabitants and others Resident within such Town, and the Precincts thereof, and the Lands and Estates lying within the Bounds of such Town, in just and equal Proportion as near as may be unto the County Charges, according as they shall receive Order from the Court of Quarter Sessions to be held for the same County; and to all Town Charges, each particular Person according to his known Ability and Estate, such Sum and Sums as hath or shall be ordered, granted and agreed upon from time to time by the Inhabitants in any Town-Meeting regularly assembled; or the major Part of those present at such Meeting, for the Maintenance and Support of the Ministry, Schools, the Poor, and for the defraying of other necessary Charges arising within the said Town, and thereof to make distinct and perfect Lists under their Hands, or the major Part of them, setting down every Persons Name, and several Proportion, and shall thereupon make out a Warrant to be signed by the said Assessors, or the Town-Clerk by their Order, (who are hereby respectively impowered thereto) directed unto the Constable or Constables of the said Town, for the speedy levying and collecting of such Assessments, and to pay, in the same unto the Select-men, or to such Person as they shall appoint for Receiver, within the time thereby prefix'd: And to make Distress upon all such who shall neglect or refuse to make Payment: And for want of Goods or Chattels whereon to make Distress, to seize the Person and commit him to the common Goal of the County, there to remain until he pay the Sum upon him assessed as aforesaid; unless the same or any Part thereof, upon Application made unto the Quarter Session, shall be abated. And if any Person think himself over-rated; and make it so appear unto the Assessors, he shall be eased; and if they refuse, such Person aggrieved may make his Application unto the Justices in Quarter Sessions, who are hereby impowered to rectify the same: And all Constables having any such Assessment committed unto them, shall settle and issue their Accompts thereof, with the Select-men, or Receiver appointed by them, within three Months after their Time or Year is expired, on Pain of forfeiting the Sum of *twenty Shillings* per Month, for each Months neglect afterward, to the Use of the Poor of such Town, and to be levied by Distress upon such delinquent Constables Goods by Warrant from one Justice of the Peace, being convicted and convicted of such Neglect before him, who is hereby thereto impowered.

Provided nevertheless, That every Constable at the End of every three Months shall pay in as aforesaid, so much as he shall have collected within that time.

And it is further enacted by the Authority aforesaid, That the Select-men or Overseers of the Poor in each Town (where there are such chosen, and specially appointed for that Service, are hereby impowered and ordered to take effectual Care

Townships and Town-Officers.

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Care that all Children, Youth, and other Persons of able Body, living within the same Town or Precincts thereof (not having Estates otherwise to maintain themselves) do not live idly, or mispend their time in loitering; but that they be brought up or imployed in some honest Calling, which may be profitable unto themselves, and the Publick. And if any Person or Persons fit and able to Work, shall refuse so to do, but loiter and mispend his or her time, wander from Place to Place, or otherwise misorder themselves; and thereof be convicted before one or more Justices of the Peace; such Person or Persons shall by such Justice or Justices be sent to the House of Correction, and at their Entrance be whipped on the naked Back, by the Master of such House, or such other as he shall procure, not exceeding ten Lashes; and be there kept to hard Labour, until he or she be discharged by such Justice or Justices, or the Quarter Sessions of the Peace for the same County. And it shall and may be lawful for the Overseers of the Poor, or Select-men in each Town where there are no other Persons specially chosen and appointed to be Overseers of the Poor; and they are hereby ordered with the assent of two Justices of the Peace, to bind any poor Children belonging to such Town, to be Apprentices, where they shall see convenient; a Man-Child, until he shall come to the Age of twenty-one Years, and a Woman-child, to the Age of eighteen Years, or time of Marriage: which shall be as effectual to all Intents and Purposes, as if any such Child were of full Age, and by Indenture of Covenant had bound him or her self.

Upon refusal to Labour, to be sent to the House of Correction. 11 W. ca 6.

Poor Children to be bound out Apprentices.

And it is further enacted by the Authority aforesaid, That every Person and Persons, (except as in this Act is before excepted) being duly chosen as aforesaid, to serve in the Office of Constable, who shall refuse to take the Oath to that Office belonging, and to serve therein, if he be able in Person to execute the same; shall pay the Sum of five Pounds, to the Use of the Poor of such Town. And if in the Towns of Boston or Salem, the Sum of ten Pounds, and shall forthwith declare his Acceptance or Refusal, and the Town shall proceed to a new Choice; and if such Person refuse to pay down his Fine, he shall be convened before the next Sessions of the Peace, to be held for that County in which such Town lieth, who upon Certificate under the Hand of the Town Clerk, or two or more of the Select-men, that such Person was legally chosen to the Office of Constable, and shewing no just Cause to the Sessions for his Excuse; the Justices shall order a Warrant to be signed by the Clerk of the Peace, directed to any of the Constables then in being within such Town, to levy the said Fine by Distress and Sale of such Offenders Goods, returning the Over-plus (if any be) the said Fine to be delivered unto the Overseers of the Poor, or Select-men to the Use of the Poor of such Town.

Penalty for not serving in the Office of Constable.

And be it further enacted by the Authority aforesaid, That if any Person or Persons come to sojourn or dwell in any Town within this Province or Precinct thereof, and be there received and entertained by the space of three Months, not having been warned by the Constable, or other Person whom the Select-men shall appoint for that Service, to leave the Place, and the Names of such Persons, with the time of their Abode there, and when such Warning was given them, returned unto the Court of Quarter Sessions; every such Person shall be reputed an Inhabitant of such Town, or Precincts of the same; and the proper Charge of the same, in case through Sicknefs, Lamenefs, or otherwise they come to stand in need of Relief, to be born by such Town; unless the Relations of such poor impotent Person, in the Line or Degree of Father or Grand-Father, Mother or Grand-Mother, Children or Grand-Children, be of sufficient Ability; then such Relations respectively shall relieve such poor Person, in such Manner as the Justices of the Peace in that County where such sufficient Persons dwell shall assess; on pain that every one failing therein, shall forfeit Twenty Shillings for every Months Neglect, to be levied by Distress and Sale of such Offenders Goods by Warrant from any two such Justices of the Peace (*Quorum Unus*) within their Limits; which shall be imployed to the Use and Relief of such impotent poor Person. *Provided nevertheless*, This Act shall not be understood of any Persons committed to Prison, or lawfully restrained in any Town, or of such as shall come, or be sent for Nursing or Education,

Persons entertained in any Town by the space of three Months and not warned out, to be reputed Inhabitants.

12 & 13 W. 3. ca 10.

11 G. ca. 1.

Persons of Ability, to relieve their Poor Relations.

Weights and Measures.

ducation, or to any Physician or Surgeon to be healed or cured : But the particular Persons who receive and entertain any such, shall be the Town's Security in their Behalf ; and be obliged to relieve and support them in Case of Need ; upon Complaint made to the Quarter Sessions, who shall accordingly order the same.

Persons warned out of Town, to depart in 14 Days or else to be sent by the Constable.

And it is further enacted by the Authority aforesaid, That any Person orderly warned as aforesaid to depart any Town whereof he is not an Inhabitant, and neglecting so to do by the space of fourteen Days next after such Warning given, may by Warrant from the next Justice of the Peace be sent and conveyed from Constable to Constable, unto the Town where he properly belongs, or had his last Residence, at his own Charge, if able to pay the same, or otherwise at the Charge of the Town so sending him.

Constables to warn Town-meetings.
2 G. ca. 4.
Penalty for neglect.

And further it is enacted by the Authority aforesaid, That when and so often as there shall be Occasion of a Town-meeting for any Business of publick Concernment to the Town there to be done ; the Constable or Constables of such Town, by order from the Select-men, or major Part of them, or of the Town Clerk by their Order, in each respective Town within this Province, shall warn a Meeting of such Town, having Order for the same in Writing ; on Pain that every Constable neglecting his Duty in that Respect, and being thereof convicted before one Justice of the Peace, shall forfeit the Sum of *twenty Shillings*, to the Use of the Poor of such Town, and to be levied by Distress and Sale of such Offenders Goods, by Warrant from such Justice of the Peace, upon neglect or refusal of Payment. And in Case the Select-men in any Town shall unreasonably deny to call a Meeting of the Inhabitants of such Town, upon any publick Occasion thereof, the same being complained of, and made to appear to one of the next Justices of the Peace within the same County ; such Justice by his Warrant directed to the Constable or Constables, may order a Meeting of the Inhabitants of such Town, therein signifying the Occasion thereof.

Justice to give Warrant for Town-meeting in case.

[*At a Great and General Court or Assembly of his Majesty's Province of the Massachusetts-Bay, begun and held at Boston, upon Wednesday the 30th of May 1722. The following Resolve was drawn up and passed on a Paragraph which relates to the Qualifications of Voters in Town-Meetings, in the Act for regulating of Townships and Choice of Town-Officers, made in the fourth Year of King WILLIAM and Queen MARY, viz. Whether the Words [rateable at Twenty Pounds Estate to one single Rate besides the Poll] are to be understood as the Qualification of Freeholders, as well as other Inhabitants of Towns, &c.*

Resolved in the Affirmative, and that the Law ought so to be understood.

C H A P. XIV.

An Act for due Regulation of Weights and Measures.

TO the End that *Weights and Measures* may be one and the same throughout this their Majesties Province :

Standard of Winchester Measure.
12 W. ca. 11.
4 A. ca. 2.
4 & 5 G. 2 ca. 6.
12 G. 2 ca. 3.
17 G. 2 ca. 7.
Constables to provide Standards.

Be it enacted and ordained by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Brass and Copper Weights and Measures formerly sent out of England, with Certificate out of their Majesties Exchequer to be approved *Winchester* Measure according to the Standard in the Exchequer ; be the publick allowed Standard throughout this their Majesties Province for the proving and sealing all Weights and Measures thereby. And the Constables of every Town throughout this Province, not already supplied, shall within three Months next coming, provide upon the Towns Charge, one Bushel, one half Bushel, one Peck, one half Peck ; one Ale Quart, one Wine Pint and half

half Pint ; one Ell, one Yard ; one Sett of Brass Weights, to four Pounds, after sixteen Ounces to the Pound, with fit Scales, and Steel Beam, tried and proved by the aforesaid Standard, and sealed by the Treasurer, or his Deputy in his Presence, (which shall be kept and used only for Standards in the several Towns) who is hereby authorized to do the same ; for which he shall receive from the Constables of each Town, *two Pence* for every Weight and Measure so tried and proved and sealed. And the Constables of every Town shall commit those Weights and Measures unto the Custody of the Select-men of their Towns, for the time being, who with the Constables are hereby enjoined to choose one able Man for Sealer of all Weights and Measures for their Town from time to time, and till another be chose, who shall be presented unto the next Court of Sessions, and there sworn to the faithful Discharge of his Duty : And shall have Power to send forth his Warrants by the Constable to all the Inhabitants of such Town, to bring in all such Weights and Measures as they make use of, in the Month of *April*, from Year to Year, at such Time and Place as he shall appoint, and make return to the Sealer in Writing of all Persons so summoned. That then and there all such Weights and Measures may be proved and sealed with the Town Seal (which is likewise to be provided by the Constables at each Towns Charge) who shall have for every Weight and Measure so sealed, *one Penny* from the Owner thereof at the first sealing. And all such Weights and Measures as cannot be brought to their just Standard, he shall deface and destroy. And after the first sealing, shall have nothing, so long as they continue just with the Standard.

Sealer of
Weights and
Measures,
how to be
chosen.

To grant out
Warrants for
Sealing of
Weights and
Measures in
April yearly.

Fee.

Penalty for
Neglect.

And it is further enacted by the Authority aforesaid, That if any Constable, Select-man or Sealer, do not duly execute this Law so far as to each and every of them appertains, they and each of them shall forfeit to their Majesties for every such Neglect, by the Space of one Month, the Sum of *forty Shillings*, towards the Support of their Government here. And every Person neglecting to bring in their Weights and Measures at the Time and Place appointed, being duly warned thereto, shall likewise forfeit *three Shillings and four Pence* ; the one Half whereof to be to their Majesties as aforesaid, the other Half to the Sealer aforesaid. And the Penalty herein mentioned, to be levied by Distress by Warrant from any Justice of the Peace.

Penalty for
Constables
Select Men
or Sealers
neglect.

Penalty for
not bringing
in Weights
when warned

And it is further enacted by the Authority aforesaid, That in every Sea-port Town within this Province, the Constable or Constables are to provide upon the Town's Charge, one Hundred Weight, one half Hundred, one Quarter of an Hundred, and one fourteen Pounds Weight made of Iron, to be tried, proved and sealed as aforesaid, and be kept as Standards in the said several Towns, to be used as before for other Weights and Measures is directed.

Sea Port
Towns to be
provided of
great Weights.

C H A P. XV.

An Act for the Regulating and Encouragement of Fishery.

UPON Consideration of great Damage and Scandal that hath happened upon the Account of pickled Fish, although afterwards dried and hardly discoverable ; to the great Loss of many, and also an ill Reputation of this Province, and the Fishery of it :

W. & M. ca. 5.
4 G. ca. 5.

Be it therefore enacted by the Governour, Council and Representatives, convened in General Court or Assembly, and it is enacted by the Authority of the same, That no Person or Persons whatsoever, after the Publication hereof, shall save or salt any Sort of Fish (that is intended to be dried) in Cask or Fatts, or any other Way than what hath formerly and honestly been practised for the making of dry Fish ; on Penalty of forfeiting all such Fish so salted and pickled, whether it be green or dry : the one Moiety thereof to the Use of the Poor of the Town where the Offence is committed, and the other Moiety to the Person that shall sue for the same.

How dry Fish
shall be saved.

D

And

Allegiance to be Sworn.

By Act
in the first
year of the
first July.
Enacted.
42. 5. W & M
ca 20.
Re-enacted.
1 A ca 5.

Penalty for
taking Mack-
rel in Nets or
Seans.

And it is further enacted by the Authority aforesaid, That henceforth no Mackrel shall be caught (except for spending whilst fresh) before the first Day of July annually : And no Person or Persons whatsoever after the Publication hereof, shall at any Time or Place within this Province, take, kill, or hale ashore any Mackrel, with any Sorts of Nets, or Seans whatsoever ; on Penalty of forfeiting all such Mackrel so taken or haled ashore, and also all such Nets and Seans which were so employed : the one Half thereof to their Majesties, toward the Support of this their Government, and the other Half to him or them that shall inform and sue for the same. And all Justices are hereby impowered and required to grant their Warrants for the seizing of the same, and the aforesaid Forfeitures, or the receiving of the like Value in currant Money of this Province.

C H A P. XVI.

An Act requiring the taking the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy.

Preamble.

*W*HEREAS their Royal Majesties in and by their Charter for the erecting and incorporating of their Province of the Massachusetts-Bay in New-England, have granted and ordained, that the Governour, or Lieutenant or Deputy Governour of their said Province or Territory, for the Time being, or either of them, or any two or more of the Council or Assistants for the Time being, as shall be thereunto appointed by the said Governour ; shall and may at all Times, and from Time to Time, have full Power and Authority to administer and give the Oaths appointed by an Act of Parliament made in the first Year of their present Majesties Reign, (entituled An Act for the abrogating of the Oaths of Allegiance and Supremacy and appointing other Oaths) to be taken in Stead of the Oaths of Allegiance and Supremacy ; to all and every Person and Persons which are now inhabiting or residing within the said Province or Territory ; or which shall at any Time or Times hereafter go or pass thither :

Now to the Intent that there be no Failure herein, but that their Majesties Subjects within this their Province, may accordingly recognize their Duty and Allegiance :

All Male Per-
sons of 18
Years and up-
wards to take
the Oaths.

Additional
Act
6 G. ca. 4.

Be it enacted and ordained by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Oaths in the said Act mentioned, and thereby appointed to be taken in Stead of the Oaths of Allegiance and Supremacy, and each of them, be and shall be forthwith administered and given unto all Male Persons of the Age of eighteen Years, or above, inhabiting or residing in any Town or Place within this Province (that have not already taken the same, and shall make it so to appear) by his Excellency the Governour, or the Lieutenant or Deputy Governour, or any two or more of the Council or Assistants, or such others as shall be thereunto appointed by the Governour ; and the List of the Names of all Persons so Sworn to be returned into the Secretary's Office.

Penalty for
refusing

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall refuse to take the said Oaths, or either of them, when tendered to him or them by any Persons lawfully authorized as is aforesaid, to administer or tender the same ; the Person or Persons so tendering the said Oaths, or either of them, shall commit the said Person and persons so refusing, to the common Goal, or House of Correction ; there to remain without Bail or Mainprize, for the Space of three Months ; unless such Offender shall pay down to the said Person or Persons so tendering the said Oaths, or either of them, such Sum of Money, not exceeding forty Shillings ; as the said Person or Persons so tendering the said Oaths, or either of them, shall require such Offender to pay for his

Forms of Oaths.

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his said Refusal ; which Money shall be paid to the Select-men, or Overseers of the Poor of the Town, or Place where such Offender did last inhabit.

And unless every such Offender, shall also become bound with two sufficient Sureties, with Condition to be of the good Behaviour ; and also to appear at the next General Quarter Sessions of the Peace, to be held for the same County, where such Offender doth inhabit or reside : At which Court of Quarter Sessions, the said Oaths shall be again tendered to every such Offender by the Justices of the said Court in open Sessions. And if the said Offender shall refuse to take the said Oaths, or either of them, when tendered to him by the said Justices in open Sessions as is aforesaid ; the said Justices tendering the said Oaths, shall commit the said Person and Persons so refusing, to the common Goal, or House of Correction, there to remain for the Space of six Months, unless every such Offender shall pay down to the Justices so tendering the said Oaths, such Sum of Money, not exceeding *ten Pounds*, nor under *five Pounds*, as the said Justices shall require such Offender to pay for his second Refusal : the said Money to be disposed of in Manner aforesaid ; and unless every such Offender shall likewise become bound with two sufficient Sureties with Condition to be of the good Behaviour, until he or they do take the said Oaths.

Penalty for a second refusal.

And whereas there are certain Persons who scruple the taking of any Oath :

Be it enacted by the Authority aforesaid, That every such Person shall make and subscribe the Declaration of Fidelity following, viz.

I A. B. do sincerely promise and solemnly declare before GOD and the World, that I will be true and faithful to King WILLIAM and Queen MARY : And I do solemnly profess and declare, that I from my Heart, abhor, detest, and renounce as impious and heretical, that damnable Doctrine and Position, that Princes excommunicated or deprived by the Pope, or any Authority of the See of Rome ; may be deposed or murdered by their Subjects, or any other whatsoever : And I do declare, that no foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Power, Jurisdiction, Superiority, Pre-eminence or Authority, ecclesiastical or spiritual, within the Realm of England, or any of their Majesties Dominions.

Declaration of Fidelity.

C H A P. XVII.

An Act for the establishing of Forms of Oaths.

Whereas it declared and enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the several Forms of Oaths here under-written, be and are hereby established : To be given and administered unto the respective Officers for whom they are appointed : *As followeth :*

10 W. ca. 14.
13 W. ca. 17.
7 G. ca. 1.
4 G. 2. ca. 1.

YOU A. B. being chosen and admitted of their Majesties Council within this their Province, do swear by the ever-living GOD, That you will to the best of your Judgment at all Times, freely give your Advice to the Governour, for the good Management of the publick Affairs of this Government ; and that you will not directly nor indirectly reveal such Matters as shall be debated in Council, and committed to your Secrecy. But will in all Things be a true and faithful Councillor when you are thereunto required. *So help you GOD.*

Councillors. Oath.

YOU A. B. do swear, That as Justice of the Peace in the County of S. according to the Commission given you ; You shall dispense Justice equally and impartially in all Cases ; and do equal Right to the Poor and to the Rich, after your Cunning Wit and Power, and according to Law. And you shall not be of Council in any Quarrel that shall come before you : You shall not let for Gift or other Cause. But well and truly you shall do your Office of Justice of the Peace in that Behalf, taking only appointed Fees. And you shall not direct or cause to be directed any Warrant (by you to be made) to the Parties ; but you shall direct your Warrant to the Sheriff, his Under-Sheriff or

Justice of the Peace Oath.

Justices of Superior & Inferiour Courts Oath.

Forms of Oaths.

Deputy, Constable, Tything-men, or other Officers, proper for the Execution of the same in the County. And this you shall do without Favour or Respect to Persons. *So help you GOD.*

Sheriff or
Marshals
Oath, *Mutatis
mutandis.*

YOU swear, That you will well and truly serve the King and Queen's Majesties, in the Office of the Sheriff of the County of *S.* and do the King and Queen's Profit in all Things that belongeth to you to do by Way of your Office, as far forth as you can or may; you shall truly keep the King and Queen's Rights, and all that belongs to the Crown: you shall not respite the King and Queen's Debts for any Gift or Favour, where you may raise them without great Grievance of the Debtors; you shall truly and uprightly treat the People of your Sheriffwick, and do Right as well to Poor as to Rich in all that belongeth to your Office: You shall do no Wrong to any Man, for any Gift or other Behest or Promise of Goods, for Favour nor Hate; you shall disturb no Man's Right: You shall truly acquit at the Treasury, all those of whom you shall any Thing receive of their Majesties Debts; you shall nothing take whereby their Majesties may lose, or whereby the Right may be letted or disturbed, or their Majesties delayed; you shall truly return, and truly serve all their Majesties Writs, as far forth as shall be to your Cunning; you shall take no Bailiff into your Service, but such as you shall answer for, and of true and sufficient Men in the County, and shall cause each of your Bailiffs, to make such Oath as you make your self, in that belongeth to their Occupation. And over this, in eschewing and restraint of the Man-slaughters, Robberies, and other manifold grievous Offences that be done daily. All these Things you shall truly observe and keep. *So help you GOD.*

Grand Jurors
Oath.

YOU as Foreman of this Inquest for the Body of this County of *S.* You shall diligently enquire, and a true Presentment make of all such Matters and Things as shall be given you in Charge; the King and Queen's Majesties Counsel, your Fellows and your own, you shall keep secret; you shall present no Man for Envy, Hatred or Malice; neither shall you leave any Man unpresented for Love, Fear, Favour or Affection, or Hope of Reward: But you shall present Things truly as they come to your Knowledge, according to the best of your Understanding. *So help you GOD.*

THE same Oath which your Foreman hath taken on his Part, you and every of you on your Behalf shall well and truly observe and keep. *So help you GOD.*

Petit Jurors
Oath.

YOU shall well and truly try, and true Deliverance make between our Sovereign Lord and Lady the King and Queen, and the Prisoners at the Bar, whom you shall have in Charge according to your Evidence. *So you help GOD.*

Jurors Oath
in civil Causes.

YOU swear, That in all Causes betwixt Party and Party that shall be committed unto you: You will give a true Verdict therein according to Law, and the Evidence given you. *So help you GOD.*

Town Clerk's
Oath.

YOU swear, That in the Office of Town-Clerk within the Town of *B.* whereto you are chosen: You will diligently and faithfully attend and discharge the Duty of your Place, and duly observe the Directions of the Law in all Things whereto your Office hath Relation, and thereby committed to your Care and Trust. *So help you GOD.*

Oath of Leather
Sealer.
Clerk of the
Market. Cul-
ler of Fish,
Packer, Ga-
ger, *Mutatis
mutandis.*

YOU swear, That you will from time to time diligently and faithfully Discharge and Execute the Office of ——— within the Limits whereto you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour. *So help you GOD.*

Constables
Oath.

WHEREAS you *A. B.* are chosen Constable within the Town of *C.* for one Year now following, and until other be chosen and Sworn in your Place: You do swear, That you will carefully intend the Preservation of the Peace, the discovery and preventing all Attempts against the same: That you will

Regulating of Fees.

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will duly execute all Warrants which shall be sent unto you from lawful Authority; and faithfully attend all such Directions in the Laws and Orders of Court, as are, or shall be committed to your Care. That you will faithfully and with what speed you can, collect and levy all such Fines, Distresses, Rates, Assessments and Sums of Money, for which you shall have sufficient Warrants according to Law; rendering an Account thereof, and paying in the same according to the Direction in your Warrant. And with like Faithfulness, Speed and Diligence, will serve all Writs, Executions and Distresses in private Causes betwixt Party and Party, and make Returns thereof duly into the same Court, where they are returnable. And in all these Things you shall deal seriously, and faithfully, whilst you shall be in Office, without any sinister Respects of Favour or Displeasure.

So help you GOD.

C H A P. XVIII.

An Act for regulating Fees.

WH^{ereas} it enacted and ordained by the Governour, Council and Representatives, convened in General Court or Assembly, and it is hereby enacted and ordained by the Authority of the same, That the Establishment of the Fees belonging to the several Offices in this Province; be as followeth.

Justices Fees.

	<i>l.</i>	<i>s.</i>	<i>d.</i>	
F OR every Attachment or Summons for Actions } not exceeding forty Shillings, <i>six Pence.</i> }	00	00	06	
<i>Sub pana</i> , each Witness, <i>two Pence.</i>	00	00	02	See
Entering the Action, <i>three Shillings.</i>	00	03	00	Act impow-
Every Execution, <i>two Shillings.</i>	00	02	00	ring Justices
Filing Papers, each Paper, <i>two Pence.</i>	00	00	02	to decide Dif-
Every Warrant for Criminals, <i>one Shilling.</i>	00	01	00	ferences not
Bond for Appeal, <i>one Shilling.</i>	00	01	00	exceeding
Copy of Evidences, the least <i>six Pence.</i>	00	00	06	forty Shillings
Copy of a Judgment, <i>six Pence.</i>	00	00	06	9 W. ca. 2.
Every Recognizance, <i>two Shillings.</i>	00	02	00	
Confessing Judgment, <i>one Shilling.</i>	00	01	00	
Affidavit out of Court, <i>one Shilling.</i>	00	01	00	
Each Days Attendance at the Sessions, to be paid out } of the Fines, <i>four Shillings.</i> }	00	04	00	
Acknowledging of a Deed or Mortgage, or any other } Instrument, <i>two Shillings.</i> }	00	02	00	

Coroners Fees.

F OR taking every Inquisition, to be paid out of the Estate of } the Deceased, <i>thirteen Shillings and Four Pence.</i> }	<i>l.</i>	<i>s.</i>	<i>d.</i>	
If no Estate, then to be paid by the County Treasurer, }	00	13	04	12 W. ca. 6.
<i>six Shillings and eight Pence.</i> }	00	06	08	

Fees for Probate of Wills, granting Administrations, &c.

F OR granting Administration, Bond and Letter of Admini- } stration under the Seal of the Office, if the Inventory } amount to thirty Pounds or upwards, to the Judge, } <i>four Shillings</i> , to the Register <i>three Shillings six Pence.</i> }	00	07	06	
If the Inventory be under thirty Pounds, <i>five Shillings</i> ,	00	05	00	
Probate of a Will where the Inventory amounts to thirty } Pounds or upwards; to the Judge <i>three Shillings</i> and } <i>six Pence</i> , to the Register, <i>two Shillings and six Pence.</i> }	00	06	00	
If under thirty Pounds, <i>four Shillings</i> ,	00	04	00	
				Recording

Regulating of Fees.

Recording a Will or Inventory of one Page, and filing the same,	} 00 02 06
two Shillings and six Pence.	
If more, each Page of twenty-eight Lines eight Words	} 00 01 00
in a Line, one Shilling.	
For a Copy of a Will or Inventory, twelve Pence a Page,	} 00 01 00
each Page to contain as aforesaid.	
Allowing Accompts, settling and dividing of Intestate	} 00 05 00
Estates, Five Shillings.	
Every Citation, one Shilling.	00 01 00
Every Quietus four Shillings.	00 04 00
Warrant for Apprizement, two Shillings.	00 02 00
Making out a Commission to receive and examine the	} 00 03 00
Claims of Creditors to insolvent Estates and	
registring of the same, Three Shillings.	
Registring of the Commissioners Report after the Rate of	} 00 01 00
one Shilling per Page, to be accounted as aforesaid.	
For entering an Order upon the Administrator to pay out the	} 00 01 06
Estate in Proportion unto the several Creditors returned	
by the Commissioners, one Shilling and six Pence.	

Secretaries Fees.

FOR engrossing the Acts or Laws of the General Assembly,	} 00 10 00
Ten Shillings each, to be paid out of the publick Revenue,	
Every Commission for the Justices of each County, and	} 00 10 00
Commission of Oyer and Terminer, ten Shillings,	
to be paid out of the publick Revenue.	
Every Commission for a Military Officer, three Shillings,	} 00 03 00
to be paid out of the publick Revenue.	
Special Warrant or Mittimus by Order of the Governour	} 00 02 06
and Council, each two Shillings and six Pence.	
Every Commission under the great Seal, for Places	} 00 10 00
of Profit, ten Shillings.	
Every Bond, two Shillings.	00 02 00
Every Order of Council to the Benefit of particular Persons,	} 00 02 06
two Shillings and six Pence.	
Every Petition to the Governour and Council or General	} 00 03 00
Assembly, according to the Import, from two	
Shillings and six Pence to ten Shillings.	
A Pass or Sea Brief, three Shillings.	00 03 00
A Bill of Health, three Shillings.	00 03 00
Every Writ for electing of Assembly-Men, directed to the	} 00 05 00
Sheriff or Marshal, under the Province-Seal, five	
Shillings, to be paid out of the publick Revenue.	
For transcribing the Acts or Laws passed by the General	} 00 05 00
Assembly into a Book, twelve Pence a Page, each Page	
to contain twenty eight Lines, eight Words in a Lane,	
and so proportionably; to be paid out of the Publick	
Revenue.	

Additional
Act.
1 G. ca. 5.
3 G. ca. 6.

In the Superiour Court.

The Justices Fees.

ENTRY of every Action for Trial, twelve Shillings.	00 12 00
Out of which the Clerk, two Shillings.	00 02 00
Taking every special Bail, two Shillings.	00 02 00
Allowing of a Writ of Error, three Shillings,	00 03 00
Allowing a Habeus Corpus, two Shillings.	00 02 00
Confessing Judgment, two Shillings.	00 02 00
Acknowledging	

Regulating of Fees.

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Acknowledging Satisfaction of a Judgment on Record, } one Shilling.	00	01	00
In all criminal Cases where a Fine is set, six Shillings.	00	06	00
Taxing every Bill of Cost, one Shilling.	00	01	00

Clerks Fees.

EVERY Writ and the Seal, one Shilling and six Pence.	00	01	06
Every Rule of Court, six Pence.	00	00	06
Filing every Declaration, one Shilling.	00	01	00
To the Jury to be paid down by the Plaintiff, six Shillings six Pence.	00	06	06
Entring Appearance, six Pence.	00	00	06
Signing a Judgment by Default, one Shilling.	00	01	00
Taking every Verdict and recording it, one Shilling.	00	01	00
Copies of all Records, twelve Pence a Page, each Page } containing twenty eight Lines, eight Words in a Line. }	00	01	00
Less than one Page, one Shilling.	00	01	00
Every Action withdrawn or Non-Suit, one Shilling.	00	01	00
Every Petition read, one Shilling.	00	01	00
Order thereon. one Shilling.	00	01	00
Filing the Records of each Action, two Pence a Paper.	00	00	02
Every Execution, two Shillings.	00	02	00

In Criminal Cases.

DRAWING and ingrossing every Indictment or Information, } two Shillings.	00	02	00
Every Appearance, six Pence.	00	00	06
For the Discharge of any Person upon Bail for the Peace, } good Behaviour, Contempt and the like, and Warrant } thereon, one Shilling.	00	01	00
For awarding and making forth Process against the } Defendant on Information, one Shilling. }	00	01	00
Every Warrant for the Peace or good Behaviour, one Shilling.	00	01	00

In the Inferiour Court.

Justices Fees.

ENTRY of every Action, ten Shillings.	00	10	00
Of which the Clerk is to have, two Shillings.	00	02	00
Taking special Bail, two Shillings. } { Of which the }	00	02	00
Confessing judgment, one Shilling. } { Clerk one Quarter. }	00	01	00
Acknowledging Satisfaction of Judgment on Record, one Shilling.	00	01	00
Taxing every Bill of Cost, one Shilling, }	00	01	00
whereof six Pence to the Clerk, }	00	00	06
To the Jury to be paid down by the Plaintiff, Six Shillings six Pence.	00	06	06

Clerks Fees.

FOR every Writ and Seal, one Shilling.	00	01	00
Entring Appearance, six Pence,	00	00	06
Entring and Recording the Verdict, one Shilling.	00	01	00
Making up the Record, one Shilling.	00	01	00
Copies of all Records, twelve Pence each Page, as before.	00	01	00
Every Action withdrawn or Non-suit, one Shilling.	00	01	00
Every Execution, two Shillings.	00	02	00

Clerk of the Sessions of Peace his Fees.

ENTRING Complaint or Indictment, two Shillings.	00	02	00
Discharge of a Recognizance, one Shilling.	00	01	00
Making forth Process against Criminals, one Shilling.	00	01	00
Every Summons, three Pence.	00	00	03
Every			

Representatives.

Every Warrant for the Peace, or good Behaviour, <i>one Shilling.</i>	00	01	00
Every Licence for Houses of publick Entertainment or Retailing, <i>four Shillings.</i>	}	00	04
Whereof <i>two</i> to the Clerk.		00	02

Sheriff, or Marshals Fees ; or Constables.6 W. & M.
ca. 3.

F OR serving every Summons for Trial, <i>one Shilling.</i>	00	01	00
Every <i>Capias</i> or Attachment, <i>two Shillings.</i>	00	02	00
and if above one Mile, <i>three Pence</i> per Mile besides :	}	00	01
Bail Bond, <i>one Shilling.</i>			
Levying Execution, for the first twenty Pounds or under, <i>one Shilling</i> per Pound ; above that, not exceeding forty Pounds, <i>six Pence</i> per Pound.	}		
Above forty Pounds, not exceeding one Hundred Pounds, <i>three Pence</i> per Pound : For whatsoever it exceeds one Hundred Pound, <i>two Pence</i> per Pound, besides <i>four Pence</i> per Mile for travel Home.			
Every Trial, <i>one Shilling.</i>	00	01	00
Every Precept for choosing of Representatives, <i>two Shillings,</i>	}	00	02
to be paid out of the County Assessment.			

Cryers Fees.

F OR calling of the Jury, <i>six Pence.</i>	00	00	06
Every Non-Suit, <i>twelve Pence.</i>	00	01	00
Every Verdict, <i>twelve Pence.</i>	00	01	00

Goalers Fees.

F OR turning of the Key upon every Prisoner committed	}	00	05
<i>Five Shillings, viz. Commitment 2s. 6d. Discharge 2s. 6d.</i>			
For Diet for each Prisoner <i>two Shillings and six Pence</i> per Week, and so proportionable, he finding the same.	}	00	02

Penalty for
taking excess-
ive Fees.

And be it further enacted by the Authority aforesaid, That what Officer soever shall ask, demand and take any greater or other Fees than are before-mentioned for the Matters aforesaid or any of them, and be thereof duly convicted in any Court of Record within this Province, shall forfeit and pay the Sum of *Ten Pounds* current Money ; one Moiety whereof to be unto our Sovereign Lord and Lady, the King and Queen, their Heirs and Successors, for and towards the Support of the Government of this their Province, and the contingent Charges thereof ; and the other Moiety unto the Informer, or him that shall sue for the same in any Court of Record ; wherein no Assign, Protection, or Wager of Law shall be allowed. And shall further pay unto the Party grieved, double the Value of the excessive Fees so taken.

C H A P. XIX.

An Act for ascertaining the Number, and regulating the House of Representatives.

Preamble.

WHEREAS their Majesties have been graciously pleased by their Royal CHARTER, to grant Power unto the Great and General Court or Assembly of their Province of the Massachusetts-Bay ; from time to time to direct, appoint, and declare what Number of Representatives each County, Town or Place shall elect and depute, to serve for and represent them respectively, in the said Assembly :

Fe

Representatives.

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Be it therefore enacted and ordained by his Excellency the Governour, Council and Representatives now in General Court assembled, and by the Authority of the same, That henceforth every Town within this Province consisting of the Number of forty Freeholders, and other Inhabitants qualified by Charter to Elect, shall and hereby are enjoined to choose and send one Freeholder as their Representative; and every Town consisting of the Number of one Hundred and twenty Freeholders and other Inhabitants, qualified as aforesaid, or upwards, may send two such Representatives; and each Town of the Number of thirty Freeholders, and other Inhabitants qualified as aforesaid, or upwards, under forty, are at Liberty to send One or not; but may choose and send one Representative, if they think fit, to serve for and represent them respectively in every Session of the Great and General Court or Assembly from time to time. And all Towns under thirty Freeholders, may send one to represent them, or join with the next Town in the Choice of their Representatives, they paying a proportionable Part of the Charge. And no Town, shall at any time send more than two Representatives, except *Boston*, who are hereby granted to choose and send Four.

4 G. 2 ca. 7.
Towns consisting of one Hundred and twenty Families or upwards, may send two Representatives.
Boston four.

And be it further enacted by the Authority aforesaid, That when and so often as His Excellency the Governour shall see Cause to convene and hold a Great and General Court or Assembly, Writs shall issue out from the Secretary's Office under the Seal of the Province, and signed by the Governour, thirty Days at least, before the Time appointed for such Assembly's Meeting, directed unto the Sheriffs of the several Counties. And where there is no Sheriff in any County or Place, there to be directed to the Marshal, commanding each of them respectively to send his Precepts to the Select-Men of the several and respective Towns within such County, to assemble and call together the Freeholders and other Inhabitants qualified as aforesaid, to choose and elect one or more Freeholders, as the Number in each Town is more or less, as above, to serve for and represent them in such Great and General Court or Assembly: The major Part of the Select-Men in each Town respectively, to be present at such Meeting, and to give Directions for the regular and orderly carrying on of the same: Who are to return the said Precept with the Names of such as shall be chosen by the major Part of the Electors present at such Meeting, under their Hands unto the respective Sheriffs or Marshals, by them to be returned into the Secretary's Office, one Day at the least before the Time prefixed for the said Court or Assembly's sitting.

Writs for calling a General Assembly to issue 30 Days before.

And it is further enacted by the Authority aforesaid, That the Representatives assembled in any Great and General Court, shall be the sole Judges of the Elections and Qualifications of their own Members; and may from time to time settle, order and purge their House, and make such necessary Orders for the due Regulation thereof, as they shall see Occasion. And forty Representatives at any time so assembled, shall be accounted a Number sufficient to constitute a House, pass Bills, and to transact and do any Business proper to be done in that House; and such Acts to be esteemed valid and of Effect.

Select-Men to regulate the Meeting.

House of Representatives Judges of Elections, &c.

40 Representatives constitute a House.

And be it further enacted by the Authority aforesaid, That each Town respectively shall pay unto their several Representatives, during their Attendance on the Court, and for the necessary time expended in their journeying to and from thence; *three Shillings in Money per Diem*, within one Month next after the End of each Session commencing from his Excellency's Arrival.

Representatives Allowance, enlarg'd.
13 A. ca. 2.

And it is further enacted by the Authority aforesaid, That every Person chosen to serve for, and represent any Town in the General Assembly, and accepting thereof, shall give his constant Attendance, during their Sessions, on Pain of forfeiting the Sum of *Five Shillings per Diem* for his Neglect; (without just excuse made and allowed of by the House of Representatives) to be paid unto the Clerk of the said House, and is to be disposed of and employed as the House shall direct; and in Default of Payment to be levied by Distress upon such Delinquents Goods, by Warrant from the said Clerk, by Order of the House, directed to the Sheriff of the County, his Under-Sheriff or Deputy, or Constable of the Town where such Representative dwells: And no Representative shall

Penalty for Non-Attendance.

5 W. & M. ca. 11.

Not to depart without Leave of the Speaker & the House.

depart or absent himself from the General Assembly, until the same be fully finished, adjourned or prorogued; without the Licence of the Speaker and Representatives assembled, to be entred upon Record in the Clerk's Book, on Pain to every one so departing or absenting himself in any other Manner, to lose his Wages. And the Inhabitants of such Town for which he serves, shall be clearly discharged of the said Wages against such Person, and his Executors forever.

No Represent-
ative or his
Servant to be
Arrested, &c.
during the
Session.
3 A. ca. 1.

And it is further enacted by the Authority aforesaid, That no Member of the General Assembly, or his Servant during the time of their Sessions, or going to and from thence shall be arrested, sued, imprisoned, or any ways molested or troubled, or compelled to make Answer to any Suit, Bill, Plaint or Declaration, or otherwise: Cases of High-Treason and Felony excepted.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay*, in *New-England*, begun and held at *Boston* the eighth of *June*, 1692. and continued by several Adjournments unto the eighth Day of *February*, following.

C H A P- XX.

An Act for the explaining and altering of some Clauses, and Sentences; and the Repealing of some others, contained in several Acts made and passed at the second Session of this Court in *October* last, 1692.

23 E it enacted by the Governour, Council and Representatives, in General Court assembled, and it is enacted and declared by the Authority of the same, *That whereas in the Act Intituled, An Act for the Settling and Distribution of the Estates of Intestates; Amongst other Things thereby enacted and provided, there is a Saving to the Party aggrieved at any Order, Sentence or Decree, made for the Settlement and Distribution of any Intestate Estate, their Right of Appeal unto the Governour and Council:*

Appeals from
the Judge of
Probate en-
larged.
4 W. & M. ca. 2.

It is now declared and enacted, That such Right of Appeal, shall to all Intents and Purposes, extend and be taken and construed to extend, as well to any other Order, Sentence, Decree or Denial, that shall at any time be made and given by the Judge of Probate, referring to the Approbation and Allowance of any Will, Grant of Administration, or other Matter: any thing in said Act to the contrary notwithstanding.

Guardians to
be allowed by
the Judge of
Probate.
6 G. ca. 3.

And further it is enacted and declared, That the Judge of Probate in each County respectively, when and so often as there shall be Occasion; be, and hereby is impowered, to allow of Guardians that shall be chosen by Minors of fourteen Years of Age, and to appoint Guardians for such as shall be within that Age; taking sufficient Security of all such Guardians for the faithful Discharge of their Trust, according to Law: And to Accompt either to the Judge or Minor, when such Minor shall arrive at full Age, or at such other Time as the Judge, upon Complaint to him made, shall see Cause.

And whereas in one other Act, Intituled, An Act for Affirming of former Judgments, and providing for Executions; Amongst other Things thereby enacted, it is provided, that Appeals then depending, having not been heard, shall be heard and tried at the first Superiour Court:

It is hereby explained and declared, To be understood and intended, and shall be construed to intend, the first Superiour Court to sit within or for that County where the Action was originally and first tried.

And

And for further Explanation and an Addition to the Section or Paragraph of said last mentioned Act, wherein Provision is made, that a Scire Facias do issue forth upon any Judgment passed in any County Court or Court of Commissioners:

It is hereby declared, To extend, and shall be construed and taken to extend as well to any Judgment passed in any Court of Assistants, Superiour or Inferiour Court, at any Time whatsoever; where Execution has not been taken out or not levied for satisfying of the same, such Writ of Scire Facias to be granted out of the Clerks Office of the Superiour or Inferiour Court respectively to be held within or for the same County, where such Judgment was given.

And whereas by the Precedent or Form for an Execution, the Officer is commanded for want of Goods, Chattels or Lands of the Debtor, to be by him shewn or found within the Precinct, to take the Body of such Debtor and commit him to Prison:

It is hereby explained, enacted and declared by the Authority aforesaid, That where Judgment is granted for Money, or any particular Specie, the Creditor shall not be compelled to take any other Specie; but in every such Case, for want thereof, the Officer shall take the Body of the Debtor, in Execution, and imprison him; unless such Creditor shall be content to receive his Satisfaction in such other Estate as may be tendered or found. And these Words, *To the Acceptance of the said A. B.* shall be supplied and inserted in the Writ of Execution, to follow next the Word *Precinct*.

And be it further enacted and declared by the Authority aforesaid, That as well Original as Judicial Writs issuing out of the Clerks Office, of the Inferiour Courts of Judicature respectively, shall run into any County within this Province, and be there Executed by the Officer or Officers of such County to whom they are directed.

And be it further enacted and declared, That the Clause in the Act Intituled *An Act for the Regulating and Encouragement of Fishery*, That henceforth no Mackrel shall be caught (except for spending whilst fresh) before the first of July annually, be, and hereby is fully Repealed and made void; any thing therein to the contrary notwithstanding.

And whereas by one other Act, Intituled *An Act for the Settlement and Support of Ministers and School Masters, amongst other things therein enacted*:

It is ordained, That every Minister being a Person of good Conversation, Able, Learned and Orthodox, that shall be chosen by the major Part of the Inhabitants in any Town, at a Town Meeting duly warned for that Purpose; (Notice thereof being given to the Inhabitants fifteen Days before the Time for such Meeting) shall be the Minister of such Town, and the whole Town shall be obliged to pay towards his Settlement and Maintenance; each Man his several Proportion thereof. Upon further Consideration of the said Section or Paragraph in said Act, and the Impracticableness of the Method therein proposed for the Choice of a Minister, in divers Towns, wherein there are more Churches than one, and Inconveniencies attending the same not so well before seen;

It is enacted and declared, That the before re-cited Section or Paragraph, and all and every the Clauses therein contained, shall from henceforth be Repealed and Revoked, and are hereby Repealed and utterly made void for ever; any thing in the said Act to the contrary notwithstanding.

And it is further declared and ordained, That the Paragraphs and Sections hereafter following, Be enacted, and by the Authority aforesaid are enacted, in Addition to the remaining Part of said Act relating to Ministers: That is to say, That each respective gathered Church in any Town or Place within this Province, that at any time shall be in want of a Minister, such Church shall have Power according to the Directions given in the Word of God, to choose their own Minister.

And the major Part of such Inhabitants as do there usually attend on the publick Worship of God, and are by Law duly qualified for Voting in Town Affairs, concurring with the Churches Act, the Person thus elected and approved, accepting thereof, settling with them, shall be the Minister, towards whose

Registering Births and Deaths.

Settlement and Maintenance, all the Inhabitants and rateable Estates lying within such Town, or Part of a Town, or Place limited by Law for upholding the publick Worship of God, shall be obliged to pay in Proportion.

Provided, That nothing herein contained is intended or shall be construed to extend to abridge the Inhabitants of *Boston* of their accustomed Way and Practice as to the Choice and Maintenance of their Ministers.

7 W. ca. 9.
Advice of
Neighbouring
Ministers to
be had.

Be it further enacted, That in such Towns or Places where there is no Church gathered, the rateable Inhabitants of such Town or Place, at a Meeting duly warned for that Purpose (Notice thereof being given fifteen Days before the Time of such Meeting) by the major Vote of such Assembly then and there met, with the Advice of three Neighbouring ordained Ministers, shall choose and call an Orthodox, Learned and Pious Person to dispense the Word of God unto them. To the Settlement and Maintenance of which Minister, all rateable Estates and Inhabitants within such Town or Place shall be assessed, and pay proportionably.

Sessions of the
Peace to pro-
vide Remedy
in Case of
Neglect of
Maintenance
of the Mini-
stry.
1 A. ca. 3.

And it is further enacted by the Authority aforesaid, That where any Town or Place shall be negligent of their Duty by Law required, respecting the Maintenance of the Ministry, the Court of Quarter Sessions of the Peace within the same County, upon Complaint to them made, are impowered and required effectually to provide for Remedy thereof, and by Warrant from said Court, to convene before them the Select-men, or others specially appointed by the Inhabitants of such Town or Place to take Care in that Matter, (having accepted such Betrustment;) and upon Conviction of Neglect therein, to impose a Fine upon the Delinquents not exceeding *Forty Shillings* each Person for the first Offence: And upon a second Conviction of such Neglect, to impose a Fine of *Four Pounds* upon each Person, and the like Sum of *Four Pounds* for every after Conviction: Such Fines to be levied by Distress and Sale of the Offenders Goods, returning the Over-plus (if any be), and to be disposed to the Use of the Poor of the same Town or Place, by the Select-men, or Overseers of the Poor.

C H A P. XXI.

An Act for the Registering of Births and Deaths.

FOR preventing of great Uncertainty and Inconvenience that may happen, for want of a particular Register of Births and Deaths:

Town Clerks
to Register
Births and
Deaths.

Be it enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That every Town-Clerk within this Province, shall be, and is hereby impowered and required, to take an Account of all Persons that shall be born or shall die, within each Town respectively, and the Precincts thereof; and fairly to Register in a Book, their Names and Surnames, as also the Names and Surnames of their Parents, with the Time of their Birth and Death. And the Clerk shall demand and receive the Fee of *three Pence*, and no more, for each Birth or Death by him so Registered; to be paid by the Parents, or others nextly related to, or concerned with the Party born or dying. And if any shall refuse or neglect to give Notice to the Town-Clerk of the Birth or Death of any Person that they are so related to or concerned for; or to pay for Registering as aforesaid, by the space of thirty Days next after such Birth or Death: Every Person so refusing or neglecting, and being (upon the Complaint of any Town-Clerk) thereof convicted before a Justice of Peace within the same County, shall forfeit and pay unto such Clerk, the Sum of *Five Shillings*; to be levied by Distress and Sale of the Offenders Goods, by Warrant from such Justice; if Payment thereof be not made within four Days next after Conviction as aforesaid. And every Town-Clerk shall give forth from the Registry a fair Certificate under his Hand of Persons born or dying in the Town, to any who shall desire the same; and he shall receive *six Pence* and no more for every Certificate so given.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, begun and held at *Boston* the thirty-first Day of *May*, 1693.

C H A P. I.

An Act for the Restraining the taking excessive Usury.

FORASMUCH as the Abatement of Interest hath always been found ^{Preamble.} beneficial to the Advancement of Trade, and Improvement of Lands by good Husbandry; and whereas the taking of eight in the Hundred for the Interest of Money, tends to the great Discouragement of Ingenuity and Industry in the Husbandry, Trade, and Commerce of this Province:

Be it for the Reasons aforesaid, enacted by the Governour, Council and Representatives, convened in General Assembly, and it is enacted by the Authority of the same, That no Person or Persons whatsoever, from and after the first Day of *August*, in the Year of our Lord, one Thousand six Hundred ninety three; upon any Contract to be made after that time, shall take directly or indirectly, for Loan of any Monies, Wares, Merchandize, or other Commodities whatsoever, above the Value of *six Pounds* for the Forbearance of one Hundred Pounds for a Year; and so after that Rate for a greater or lesser Sum, or for a longer or shorter time. And that all Bonds, Contracts, Mortgages and Assurances whatsoever, made after the Time aforesaid for the Payment of any Principal or Money lent, or Conveanted to be lent, upon or for Usury, whereupon or whereby there shall be reserved, or taken above the Rate of *six Pounds* in the Hundred as aforesaid, shall be utterly void; and that all and every Person and Persons whatsoever, which shall after the time aforesaid upon any Contract, take, accept and receive by Way or Means of any corrupt Bargain, Loan, Exchange, or by Covin, or deceitful Conveyance, or by any other Way or Means whatsoever, for the forbearing or giving Day of Payment for one whole Year, of, and for their Money, or other Thing or Things, above the Sum of *six Pounds* for the forbearing of one hundred Pounds for a Year; and so after that Rate for a greater or lesser Sum, or for a longer or shorter time; shall forfeit and lose for every such Offence the full Value of the Goods and Monies, or other Things so lent, exchanged, bargained, sold, or agreed for; one Moiety thereof to their Majesties, towards the Support of the Government of this Province, and the contingent Charges thereof; the other Moiety to the Informer that shall sue for the same; any Custom, Usage or Law to the contrary notwithstanding. ^{Six Pound p. r Cent. Interest per Annum for Loan of Money.} ^{Penalty for contracting for more.}

Provided, Nothing in this Act shall extend to the letting of Cattle, or other Usages of like Nature, in Practice amongst Farmers, or Maritime Contracts among Merchants, as Bottomry, or Course of Exchange, as hath been heretofore accustomed. ^{A saving.}

C H A P. II.

An Act for encouraging the killing of Wolves.

BE it enacted by the Governour, Council and Representatives, convened in General Assembly, and by the Authority of the same, That whosoever hath since the fourteenth Day of *May*, one Thousand six Hundred ninety and two; or shall hereafter, kill any grown Wolf within this Province, and bring the Head thereof unto the Constable of the Town in which such Wolf shall be killed, or to the Constable of the Town next Adjacent unto the Place of killing such Wolf, without the Bounds of any Township; shall have ^{Wolves to be paid for out of the Town Stock.}

7 W. ca. 5.
2 G. ca. 3.
7 G. ca. 3.

have a Receipt of the Constable for the same, and the Constable shall cut off both the Ears from such Head; and the Party producing the Constables Receipt unto the Select-Men of the said Town, or some one of them, shall be allowed and paid out of the Town's Stock, the Sum of *twenty Shillings* for every Head as aforesaid of a grown Wolf by him kill'd, and the Sum of *Five Shillings* for every Wolf's Whelp.

And the better to furnish the Select-Men with a Stock sufficient to answer such Payments :

Select men to
assess their
Town yearly
for this Occa-
sion, to be re-
imbursed out
of the publick
Treasury.

It is further enacted by the Authority aforesaid, That the Select-Men of each Town respectively, shall be and hereby are sufficiently authorized and im- powered to assess the Inhabitants of their Town yearly, in due Proportion as near as they can, such Sum and Sums as they shall judge necessary to serve that Occasion, together with other Charges of the Town, and to cause the same to be collected in manner as is by Law directed for the gathering of Town Rates; And all such Sum and Sums of Money so paid out of any Town Stock, for the killing of Wolves (the same being made to appear,) shall be allowed unto such Town by the General Treasurer of the Province, out of the publick Revenue.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Pro- vince of the *Massachusetts-Bay* in *New-England*, begun and held at *Boston* the thirty-first Day of *May*, 1693. And continued by Adjournment unto the sixth Day of *July* following.

C H A P. III.

An Act for the Partition of Lands, &c. and the Recovery of Legacies at the Common Law.

Partition of
Lands be-
twixt Copar-
ceners, &c.
to be forced
by the com-
mon Law.
4 W. & M.
ca. 13.
13 G. ca. 5.
1 G. 2. ca. 1.
17 G. 2. ca. 2.

WHEREAS it enacted by the Governour, Council and Representatives, con- vened in General Court, and by the Authority of the same, That all Persons having or holding, or that hereafter shall have or hold, any Lands Tenements or Hereditaments, as Coparceners, joint Tenants, or Tenants in Common, may be compelled by Writ of Partition at the com- mon Law to divide the same; where the Parties cannot agree to make Partition thereof by themselves.

Provided, This Act shall not be understood to repeal, or any ways alter any Clause or Clauses in the Act, *For Regulating of Townships*, referring to undivided or common Lands.

Legacies to be
recovered at
the common
Law.

And it is further enacted by the Authority aforesaid, That where any certain Legacy is or shall be bequeathed and given to any Person in his or her last Will and Testament; As also where any residuary or uncertain Legacy is, or shall by the Account of any Executor be reduced to a Certainty; every such Legacy and Legacies as aforesaid, may be sued for, and recovered at the common Law; any Law Custom or Usage to the contrary notwithstanding.

C H A P. IV.

An Additional Act for the Punishing of Criminal Offences.

Preamble.

WHEREAS the breach of sundry Criminal Laws of this Province, is only punishable by Fines, and many Times the Breakers of them have not Money to satisfy the same :

Be it therefore enacted by the Governour, Council and Representa- tives, convened in General Assembly, and by the Authority of the same, That hence-forward it shall be in the Power of any Justice of the Peace, that shall

shall have Cognizance thereof, to punish Breakers of the Peace, Prophaners of the Sabbath, and unlawful Gamesters, Drunkards, or prophane Swearers or Cursers, by setting in the Stocks, or putting into the Cage, not exceeding three Hours, or Imprisonment twenty four Hours, or by Whipping, not exceeding ten Stripes, as the Case may deserve; and where the Offender has not wherewithal to satisfy the Law in that Case provided.

⁴ W. & M. ca. 6. Criminal Offences to be punished by sitting in the Stocks, &c. where the Offenders cannot otherwise satisfy the Law.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, begun and held at *Boston* the eighth Day of *November*, 1693.

C H A P. V.

An Act relating to Sureties upon mean Procces in Civil Actions.

BE it enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, it is ordered and enacted, That where Bail is given upon mean Procces in any Civil Action, not only for the Appearance of the Party to answer the Suit, but also to abide the Order or Judgment of the Court that shall be given thereon; every such Surety or Sureties shall be obliged to satisfy the Judgment in Case of the Principals Avoidance, and the return of *Non est Inventus* upon the Execution; unless the Surety at the Time of entering up Judgment do bring the Principal into Court and move to be discharged; upon which the Court shall order the Keeper of the Prison to receive him into Custody, that so his Body may be taken in Execution. And the Party for whom the Judgment was given, may have a Writ of *Scire Facias* out of the same Court against such Surety or Sureties; and in Case no just Cause be shewn to the contrary, the Judgment shall be affirmed against the Surety or Sureties with the additional Costs of Suit; and Execution shall be accordingly granted.

Additional Act.
⁴ A. ca. 3.
² G. ca. 10.

Always Provided, That such Writ of *Scire Facias* be taken out and served upon the Surety within twelve Months after the first Trial, and not afterward. And every Surety of whom such Recovery is made, may bring his Action for Damages against the principal Debtor.

C H A P. VI.

An Act for passing of Sheriffs Accompts.

BE it enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Clerk of the Peace in each County within this Province and Clerk of Assize, shall deliver unto the Sheriff of the County a perfect Estreat of all Fines, Issues, Amerciament, Recognizances, Monies and Forfeitures imposed, set lost or forfeited in any Sessions of the Peace, Court of Assize and General Goal Delivery, or special Court of *Oyer and Terminer*, by any Person, due to their Majesties within the Space of thirty Days next after the ending of the said Courts respectively; and within the said Time shall deliver unto the Treasurer and Receiver General of the said Province, a perfect *Schedule* of all such Estreats by him delivered to the Sheriff; on pain of forfeiting to their Majesties for the Support of the Government, the Sum of *Five Pounds* for each Neglect, upon Conviction thereof before the Justices of the same Court.

^{12 & 13} W. ca. 8.

And the Justices of each of the said Courts respectively are hereby impowred to audit, examine and adjust the said Accompts of the Sheriff, and upon Payment of what shall be found remaining due thereupon, to grant the Sheriff a *Quietus est*.

And

And whensoever any Sheriff upon passing his Accompts shall have his *Quietus est*, he shall be thereby absolutely discharged of all Sums of Money by him levied and received, and pretended not to be accounted for within the said Accompt, whereupon he had his *Quietus*; unless such Sheriff shall be called in Question for such Sum or Sums of Money so pretended to be levied within two Years after the Time of such Accompt and *Quietus*.

C H A P. VII.

An Act for Regulating of the Militia.

Preamble.

WHEREAS for the Honour and Service of their Majesties, and for the Security of this their Province against any Violence or Invasion whatever; it is necessary that due Care be taken that the Inhabitants thereof be armed, trained, and in a suitable Posture and Readiness for the Ends aforesaid; and that every Person may know his Duty and be obliged to perform the same:

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and it is ordained and enacted by the Authority of the same,

Persons liable to Train.

1. That all Male Persons from sixteen Years of Age, to sixty, (other than such as are herein after excepted) shall bear Arms, and duly attend all Musters and Military Exercises of the respective Troops and Companies where they are listed or belong; allowing three Months Time to every Son next after his coming to sixteen Years of Age; and every Servant so long, after his Time is out; to provide themselves with Arms and Ammunition, &c.

Clerk to take a List four times a Year.

2. And the Clerk of each Troop and Company once a Quarter yearly, shall take an exact List of all Persons living within the Precincts of such Troop or Company, and present the same to the Captain or chief Officer, on pain of forfeiting forty Shillings for each Default, to be paid to the Captain or chief Officer to the Use of the Company. And in Case of Non-Payment, to be levied by Distress and Sale of the Offenders Goods, by vertue of a Warrant from the Captain or chief Officer; who is hereby impowred to grant the same.

Persons to attend Duty where listed till orderly dismissed.

3. That every Person listed in any Troop or Company shall so continue and attend all Duty in such Troop or Company; or otherwise suffer the Penalty by Law provided; until orderly dismiss'd or removed out of the Town or Precinct. And in Case of removal into the Precinct of another Company in the same Town, to produce a Certificate under the Hand of the Captain or chief Officer of the Precinct whereto he is removed, that he is listed there.

Penalty on such as shall shift to avoid listing.

4. If any Person liable to be listed as aforesaid, do exempt himself by shifting from House to House, or Place to Place, to avoid being so listed; he shall pay as a Fine for every such Offence, to the Use of the Company to which he belongs, Ten Shillings, being convicted before any Justice of the Peace of the County.

Foot Soldiers how to be armed.

11 A. ca. 4.

5. That every listed Soldier and other Householder (except Troopers) shall be always provided with a well fix'd Firelock, Musket, of Musket or Bastard Musket bore, the Barrel not less than three Foot and a half long; or other good Fire Arms to the Satisfaction of the Commission Officers of the Company; a Snapack, a Collar with twelve Bandaliers, or Cartouch-Box; one Pound of good Powder, twenty Bullets fit for his Gun; and twelve Flints; a good Sword or Cutlash, a Worm and Priming-Wire fit for his Gun: On Penalty of six Shillings for want of such Arms as is hereby required, and two Shillings for each other Defect, and the like Sum for every four Weeks he shall remain unprovided: The Fines to be paid by Parents for their Sons under Age, and under their Command; and by Masters or Heads of Families, for their Servants other than Servants upon Wages.

6. That

6. That every Trooper shall be always provided with a good serviceable Horse of Five Pounds Value, and not less than fourteen Hands high, (the same to be determined by the two Chief Commission Officers) covered with a good Saddle, Bit, Bridle, Holsters, Pectoral and Crooper; and furnished with a Carbine, the Barrel not less than two Foot and half long, with a Belt and Swivel; a Case of good Pistols; with a Sword or Cutlash; a Flask or Cartouch-Box; one Pound of good Powder, three Pounds of sizable Bullets, twenty Flints, and a good pair of Boots and Spurs; on Penalty of *twelve Shillings* for want of such Horse as is hereby ordered, and *three Shillings* a Piece for every other Defect, and the like Sum for every six Weeks he shall remain unprovided: And that each Trooper list his Horse, and shall not dispose thereof without the Consent of his chief Officer; on the Penalty of *Five Pounds*: And for Non-Appearance at the Time and Place appointed for Exercise, every listed Trooper for each Days Neglect, shall pay *ten Shillings* Fine.

Troopers,
how to be
furnished.

7. That there may be two Troops in a Regiment, each of which Troops shall not exceed sixty Men with Officers.

8. That Regimental Musters shall be but once in three Years, (except in *Boston*.) And every Captain or chief Officer of any Company or Troop in any Regiment, shall be obliged on Penalty of *Five Pounds*, to draw forth his Company or Troop, or cause them to be drawn forth four Days annually, and no more, to Exercise them in Motions, the Use of Arms, and shooting at Marks, or other Military Exercises, which every Person liable to Train, having been duly warned, and not appearing and attending the same, shall for each Days Neglect, pay a Fine of *Five Shillings*.

Regimental
Musters, and
Training of
particular
Companies.

9. That the Commission Officers of any Company or Troop, or the major Part of them, may order the correcting and punishing Disorders and Contempt on a training Day, or on a Watch; the Punishment not being greater than laying Neck and Heels, riding the Wooden Horse, or *ten Shillings* Fine.

Commission
Officers
Power.

10. That there be Military Watches appointed and kept in every Town at such Times, in such Places, and in such Numbers, and under such Regulation as the chief Military Officers of each Town shall appoint, or as they may receive Orders from the chief Officer of the Regiment: And that all Persons able of Body, or that are of Estate (and not exempted by Law) shall by themselves or some meet Person in their Stead, to the Acceptance of the Commander of the Watch, attend the same; on Penalty of *Five Shillings* for each Defect; there having been due Warning given.

Military
Watches.
11 W. ca. 8.
11 A. ca. 6.

11. Every Soldier or other Person liable by Law, refusing or neglecting to attend Military Exercises, on training Days, or Military Watches; that shall not pay, or have no Estate to be found whereon to levy the Fine; it shall be in the Power of the Captain, or chief Officers of such Company on the next training Day after such Neglect (he not having satisfied the Clerk) to punish him for such Offence, by laying Neck and Heels, or riding the Wooden Horse, not exceeding one Hour's time; And if such Delinquent shall absent himself the second training Day, without giving sufficient Reason to the Captain, or chief Officer for the same; it shall be in the Power of the chief Officer of the Company to direct a Warrant to the Constable of the Town, requiring him to apprehend such Delinquent, and bring him into the Field, that he may be punished according as by this Law is provided: And all Constables are hereby required to execute such Warrant accordingly.

Penalty for
not attending
Military Ex-
ercises.

12. That the Persons hereafter named be exempted from all Trainings, viz. The Members of the Council, the Representatives for the time being, the Secretary, Justices of the Peace, President, Fellows, Students, and Servants of Harvard College, exempted by College-Charter, Masters of Art, Ministers, Elders and Deacons of Churches, Sheriffs, allowed Physicians, or Surgeons, and professed School-Masters, all such as have had Commissions, and served as Field-Officers, or Captains, Lieutenants, or Ensigns, Coroners, Treasurers, Attorney-General, Deputy Sheriffs, Clerks of Courts, Constables, constant Ferry-men, and one Miller to each Grist-Mill, Officers employed in and about their Majesties Revenues, all Masters of Vessels of thirty Tons and upwards, usually employed beyond

Persons ex-
empted from
Training.

1 A. ca. 1.

Persons ex-
empted from
Military
Watches, &c.

11 W. ca. 8.

Commission
Officers to
appoint Ser-
jeants & Cor-
porals.

View of Arms

How Persons
unable to
purchase
Arms, may
be provided.

How Drums
Trumpets, &c.
are to be pro-
vided.

11 W. ca. 4.

Penalty for
refusing to
serve as Clerk.

Oath.

Sea; and constant *Herdsmen, Lame Persons*, or otherwise disabled in Body (producing Certificate thereof from two able *Surgeons*) *Indians and Negroes*.

13. That the Persons hereafter named be, and hereby are exempted from Military Watches and Wardings viz. *The Members of the Council, Secretary, Representatives* for the Time being, *President, Fellows, Students of Harvard-College*, and the *Gentlemen belonging to the Troop of the Governour's Guard, Ministers, and Elders of Churches*, allowed *Physicians and Surgeons, Constables*, constant *Ferry-men*, and one *Miller* to each *Grist Mill*.

14. That the Captain and Commission Officers of each Company or Troop shall and hereby are fully impowred to nominate and appoint meet Persons to serve as Serjeants and Corporals in the respective Companies or Troops; and to Displace them, and appoint others in their Room, as they shall see meet.

15. That twice every Year, or oftner if required, every Captain or chief Officer of each Company or Troop, shall give order for a diligent Inquiry into the State of his Company, and for taking an exact List of the Names of his Soldiers, and Inhabitants within the Limits of his Company, and of the Defects of Arms or otherwise, and Names of the defective Persons; that they may be prosecuted as the Law hath provided, and such Care may be taken as is proper to remedy the same.

16. That if any Person who is by Law obliged to provide Arms and Ammunition, cannot purchase the same by such Means as he hath; if he bring to the Clerk of the Company, Corn or other Merchantable Provision, or vendible Goods, so much as by Apprizement of the Clerk and two other Persons mutually chosen, shall be judged of greater Value by one fifth Part than such Arms or Ammunition is of; he thereupon shall be excused from the Penalties for want of Arms and Ammunition, until he can be provided, which the said Clerk shall provide as soon as may be by Sale of such Goods, and render the Overplus to the Party, if any may be: But the Party shall notwithstanding give his personal Attendance upon all Occasions as other Soldiers, until he be supplied, and at such times shall perform any proper Service he may be put upon by the Captain or Chief Officer of the Company he belongs to. But if the Person be judged unable to buy Arms, or to lay down the Value proposed; if he be a single Man, he shall be put out to Service by the two next Justices of the Peace, to earn wherewith to buy Arms and Ammunition. If such Person have a Family and be judged unable by the Captain and major Part of the Select-Men to lay down such Value for the End aforesaid, then he shall be provided for out of the Town Stock, or by Arms procured at the Town's Charge, until such time as he be judged able to provide for himself. And such Arms to be under the Care of the chief Military Officer and the Select-Men of the Town.

17. That Drums, Drummers, Trumpets, Trumpeters, Colours and Banners, be by the Commission Officers of each Troop or Company provided at the Charge of the respective Companies and Troops where they are not already provided, and the Fines will not reach to procure the same; and that such as have been employed as Drummers or Trumpeters, or are fit and capable thereof, being appointed unto such Service by the chief Officer of any Company or Troop, shall attend the Service, on Penalty of *Forty Shillings* Fine: and every Drummer for a Year's Service shall have *Twenty Shillings*, if he find his own Drum; and *Ten Shillings*, if the Captain finds the Drum. And a Trumpeter *Forty Shillings* a Year, if he find his own Trumpet; and *Twenty Shillings*, if the Captain finds it.

18. That such meet Person as by the Commission Officers of any Company or Troop shall be appointed Clerk, and shall refuse to serve, shall pay *Forty Shillings* Fine, and another be chosen in his Room, and so until one do accept; Which Person shall be under Oath for the faithful Discharge of his Office, to be administered unto him by a Justice of Peace in the same County, in the Words following,

YOU do swear truly to perform the Office of Clerk of the Military Company under the Command of A. B. Captain, to the utmost of your Skill and Power in all Things appertaining to your Office according to Law. So help you God.
And

And for every Distrain made for any Fine not exceeding *Forty Shillings*, he shall have one Quarter Part for his Pains and Trouble. And for such Fines he may distrain *Ex Officio*; and in distraining shall observe such Rules as the Law hath provided in other Cases; and upon ten Days Notice shall account with and pay to the Captain or chief Officer what Fines he hath received, his own Part being deducted.

Allowance & Distress for Fines.

19. The chief Military Officer of each Regiment as often as he shall see Cause, shall require the Captain or chief Officer of each Company in his Regiment to meet at such Time and Place as he shall appoint, and then with them to confer and give in Charge such Orders as shall by them, or major Part of them be judged meet, for the better ordering and settling their several Companies; and for the better promoting of Military Discipline amongst them. And the chief Officer is hereby empowered by his Warrant directed to any Clerk or Officer of his Regiment, to Summon or cause to be brought before them any Offender against the Laws Military, and according to Law to hear and determine all Matters proper for their Cognizance, and to give Sentence, and to grant Mittimus, or Warrants for Distrain to the Clerk of the Company where the Offence is committed; for executing which Warrant, if above *Forty Shillings*, he shall have *ten Shillings* out of the same for his Pains and Trouble therein, and no more.

Meeting of the chief Officers of the Regiment.

Their Power. 12 W. ca. 1.

20. That there be a Stock of Powder and Ammunition in each Town provided, and from time to time as there is need, be renewed by the Select-men; which shall be a Barrel of good Powder, two hundred Weight of Bullets, and three hundred Flints, for every sixty listed Soldiers, and after that Proportion for the listed Soldiers of each Town, whether more or less: Also that the Select-men procure such a Number of Arms, and so much Ammunition as shall be made to appear by the chief Commission Officer of each Company in the several Towns to be needful for the Supply of such Poor as by Law they are to provide for. And such Town as cannot make it appear to the chief Commander of the Regiment that they are thus provided, at or before the first of *May* next, shall pay *Five Pounds* Fine, which shall be distrained by Warrant from the said Officer, directed unto the Constable upon the Select-men of the Town, or any of them; and disposed of for the Use of the said Town towards the Supply of such Stock: And the like Sum for every three Months they shall remain so unprovided.

Town Stock of Ammunition, &c.

Penalty for being unprovided.

21. And the Select-men where there is not a sufficient Stock of Powder, Arms and Ammunition, and in such Towns where there is need of Watch-Houses, Firing and Candles for their Watches; in such Case the Select-men for so much as is wanting, are to procure or supply what is required or needed as before, and shall make Provision for the same by a Rate, equally and justly laid upon the Inhabitants and Estate in such Towns, and such Rate signed and committed by them to the Constables to collect, who shall, and hereby are required and authorized to collect the same; and for Non-Payment to distrain as for other Rates; And the Money or Pay collected to be brought in to the chief Military Officers and the Select-men of the Town, to be by them improved for the Ends aforesaid. And the Select-men, or so many of them as shall neglect their Duty herein, shall pay *twenty Shillings* Fine, to be paid to the Captain for the Use of the Company, being convicted before two Justices of the Peace, who are hereby empowered to convent the Party, and to hear and determine the same, and if need be, to appoint other meet Persons in such Towns under the like Penalties to perform the said Service.

Select-Men to make a Rate for buying of Ammunition, &c. in case.

Penalty for Neglect.

22. That no Clerk *Ex Officio* make distrain for any Fine until four Days after the Offence committed, that so the Party may have Opportunity to make Excuse, if any he have, why he should not pay the Fine. And every Clerk that neglects or refuses to Account or make Payment, as by this Law is provided, he, by a Warrant from the chief Officer of the Company directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

Clerks *Ex Officio*, not to distrain within four Days.

Penalty for his neglect to account &c.

23. That all Officers yield Obedience to the Warrants or Commands of their Superiour Officers, on Penalty of *Five Pounds*; to be heard and determined at

Penalty for
Officers dis-
obeying their
Superiour
Officers.

the next Meeting of the chief Officers and Captains of the Regiment ; And the Fine to be taken by Distress and Sale of the Offenders Goods, (returning the Over-plus if any be) by Warrant from the chief Officer of the Regiment, directed to the Clerk of the Company to which such Offender belongs, and to be improved to the Use and Benefit of such Company as the Officers so met shall agree, the Expenses being first defrayed out of the same.

Alarm.

24. That an Alarm at the Castle upon Castle-Island near *Boston*, being made upon such Causes as are agreeable to Instructions to be given by the Governour to the Captain of the Castle, shall be by putting out two Flaggs, and firing of two Guns towards the Town ; at which time there shall with all possible Speed such Numbers be sent down for their Relief, as the Governour and Captain General, or such Person as shall be Commander in Chief in his Absence, shall think necessary. At any other Place, an Alarm may be made by firing three Guns one after another, or by firing a Beacon, their Drums beating an Alarm, all Persons being called upon to Arm : upon which all the trained Soldiers, and others capable to bear Arms that are then Resident in any Town, shall forthwith appear, compleat with their Arms and Ammunition according to Law, at the usual Place of Rendezvous, or where the chief Officers shall appoint ; there to attend such Commands as shall be given for their Majesties Service, and that on the Penalty of *Five Pounds* Fine, or three Months Imprisonment. The Members of the Council, Justices and Sheriffs, to attend upon the Governour, if at or near *Boston*; and in other Places, to appear and advise with the chief Military Officers of the Town, and to be assisting in their Majesties Service according to their Quality. And such Alarms shall at all Times be carried on from Neighbourhood to Neighbourhood, and from Town to Town throughout the Province ; and from such Town where the Alarm is made, there shall be forthwith dispatched one or more Horse-men, to signify the Occasion thereof to the Justice of the Peace, chief Military Officer, or Constable of the next Town or Towns, which all Persons are to take Notice of and attend as is before directed ; And if the Alarm be made either from a Sea-Port Town, or other Town that lies a Frontier to, or in great Danger of the Enemy, the Captain or Captains of the adjacent Towns, shall forthwith go with or send such Relief as they shall judge meet for the Offence of the Enemy, or Defence of themselves and Neighbours ; but so as to be obedient to any Commands or Orders they may receive from their Superiour Officers. And if any Person shall wilfully make a false Alarm, he shall be fined to their Majesties *Twenty Pounds*, for Support of the Government ; or suffer six Months Imprisonment.

Penalty for
not appearing
upon an
Alarm.

Relief to be
sent to the
Frontiers.

Penalty for a
false Alarm.
12 W. ca. 1.

Penalty for
Quartering
Soldiers, &c.
upon Inhabi-
tants.

25. No Officer Military or Civil, or other Person, shall Quarter or Billet any Soldier or Seaman upon any Inhabitant within this Province, without his Consent (other than the publick licensed Houses) under the Penalty of *one Hundred Pounds* ; to be recovered by Action, Bill, Complaint or Information, in any Court of Record ; one half to their Majesties, for the Support of the Government ; the other half Part to the Party grieved that shall inform and sue for the same. And every such Inhabitant may refuse to Quarter any Soldier or Seaman notwithstanding any Order whatsoever.

26. That all Persons exempted by this Law from Trainings, shall notwithstanding be provided with Arms and Ammunition compleat, upon the same Penalty as those that are obliged to train.

Fines & For-
feitures how
to be recover-
ed & disposed.

27. All Fines Penalties and Forfeitures arising by Virtue of this Act, or any Breach thereof (not otherwise disposed of therein) shall be for the Use of the Regiment, Company, or Troop respectively: *That is to say*, for procuring and repairing Drums, Trumpets, Colours, Banners, Halberts, paying of Drummers and Trumpeters, or other Charge of the said Company ; and the Overplus (if any be) to be laid out in Arms and Ammunition for a Town Stock ; and be recovered by Action, Bill, Complaint or Information, in any of their Majesties Courts of Record.

C H A P. VIII.

An Act for High-Ways.

FOR the better amending and keeping in Repair and Clear, the High-Ways, and common Roads, leading from Town to Town, and Place to Place ; and for laying out new High-Ways, and turning old High-Ways where it shall be needful :

Preamble.

Be it enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there be Annually chosen two or more Freeholders in each Town respectively within this Province, to be Surveyers of the High-Ways, who shall be sworn before some Justice of the Peace in the County, diligently and faithfully to perform the said Office for the Year ensuing ; which Surveyers shall take Care that all High-Ways, Private-Ways, Causeys and Bridges lying within the Precincts of such Town, be kept in Repair, and amended from time to time, when and so often as shall be needful, at the Charge of such Town (where it is not otherwise settled) that so they may be safe and convenient for Travellers, Teams, and Drovers ; And the Surveyers are hereby impowred to cut down, dig up, or remove, as well all sorts of Trees, Bushes, Stones, Fences, Rails, Gates, Inclosures, or other Thing or Things, as may any Way straiten, hurt, hinder or incommode the High Ways : As also to dig for Stone or Gravel, Clay, Marl, Sand or Earth, in any Land not planted or inclosed ; and to press any Carriage, Workmen, or other Things fit to be employed in the High-Ways, for such reasonable Satisfaction to the Parties concerned as such Surveyers can agree for ; and in case of Disagreement, such as the two next Justices shall appoint.

Surveyers of High-Ways to be Chosen and sworn Annually.

11 G. ca. 3.

Their Power.

And the Surveyers shall appoint certain Days for providing Materials and Working in the High-Ways ; having respect to the Season of the Year, and the Weather, and giving convenient publick Notice ; at which Days all Persons liable to Work, (*That is to say*, from sixteen Years old and upward) by themselves, or other sufficient Persons in their stead, shall attend : And if any Person make Default of attending the said Work, by himself, or other sufficient Person in his stead ; or with his Cart and Team, as he shall be appointed ; upon Complaint and Proof thereof before the next Justice of Peace, without reasonable Excuse made, and allowed by such Justice, he shall cause to be levied of every such Offenders Goods, the Sum or Penalty of *two Shillings, six Pence*, for each Day's Neglect of Labour, besides the Charge of making Distress ; and for Default of their Cart and Team *six Shillings per Diem*, with Charge of Distress as aforesaid.

Surveyers to give publick Notice for Working on the High-Ways.

Penalty for Non-attendance.

And further it is enacted by the Authority aforesaid, That where a new High-Way or common Road from Town to Town, or Place to Place shall be wanting, and where old Ways with more Conveniency may be turned or altered ; upon Application made to the Justices in Quarter Sessions, within the same County, the said Court may appoint a Committee of two or three sufficient Freeholders of the next Towns, who shall have most Occasion of the said Way, to enquire into the Necessity and Conveniency thereof, and to make their Report thereon ; and being judged to be of common Necessity or Conveniency, the Justices of the said Court shall order a Warrant to the Sheriff or his Deputy, to summon a Jury out of the next Towns, to meet at some convenient Day and Place therein mentioned, to View and lay out such High-Ways or Roads, who shall have an Oath administered unto them by a Justice of Peace, to lay out such Way, according to the best of their Skill and Judgment, with most Conveniency to the Publick, and least Prejudice or Damage to any particular Person ; which having done, the Sheriff or his Deputy, is to make Return thereof, at the next Court of Quarter Sessions of the County where the same Way is, as well under his own as the Hands of the Jurors, by whose Oath the same is laid out ; to the End the same may be allowed and Recorded, and after known for a publick High-Way.

Quarter Sessions to give order for laying out New High-Ways, or altering old ones.

Provided,

Damage in
Proprieties
to be made
good.

Provided, That if any Person be thereby damaged in his Propriety or improved Grounds, the Town shall make him reasonable Satisfaction, by the Estimation of those that laid out the same : And if such Person so damaged, find himself aggrieved by any Act or Thing done by the Jury, either in laying of the said Way, or Estimate of his Damages; he may apply unto the Court of Quarter Sessions for Relief, before any Allowance or Determination be made by them; who are hereby impowred to hear and determine the same. But if no sufficient Cause appear for Complaint, he shall pay all Charges arising thereby.

Select-Mens
Power to lay
out private
Ways.
12 A. ca. 6.

And be it further enacted, That the Select-Men of each Town respectively, be, and are hereby impowred, by themselves, or others whom they shall appoint; to lay out or cause to be laid out, particular and private Ways for such Town only, as shall be thought necessary; so as no Damage be done to any particular Person, in his Land or Propriety without due Recompence to be made by the Town; as the Select-Men and the Party interested may agree; or as shall be ordered by the Justices in Quarter Sessions, upon Enquiry into the same, by a Jury to be summoned for that Purpose.

Nuisance upon
High-Ways
to be removed.
10 W. ca. 1.
7 & 8 G. 2. ca. 3.

And it is further enacted, That if any Person or Persons shall erect and set up any Gates, Rails or Fence upon or across any High-Way or Country Road, or continue any such to the Annoyance and Incumbrance of the same, (other than such as shall be allowed by the Court of Quarter Sessions within the County) it shall be deemed a common Nuisance; and it shall be lawful for any Person or Persons to pull down and remove the same: And if any such Incumbrance be in any particular or private Way, allowed and settled by any Town, upon Complaint thereof made to the next Justice of the Peace, he shall appoint a Committee of two or more discreet and indifferent Persons to view such Incumbrance, and cause the same to be removed: And if any Person be aggrieved at the Removal of any such Gate, Bars or Fence, he shall be heard at the Quarter Sessions within the same County, and upon just Cause shewn, shall be by them relieved.

Damage hap-
ping thro' De-
fects in Ways
or Bridges to
be made good
by the County
or Town.

And be it further enacted by the Authority aforesaid, That if through Neglect or not keeping in sufficient Repair any High-Way, Causey, or Bridge; any Person happen to lose his Life in passing any such High-Way, Causey, or Bridge, or lose a Limb, brake a Bone, or receive any Bruise or Breach in any Part of his Body, through any Defect in, or want of necessary Repair of such High-Way, Causey, or Bridge; the County or Town respectively to which of Right it belongs to maintain and keep the same in Repair, having been warned or notified of such Defect and need of Repairs and Amendment thereof, either in Writing under the Hand of two Witnesses, or by Presentment thereof made at the Sessions of the Peace; shall pay unto the Parents, Husband, Wife, Children or next of Kin to any Person so losing his or her Life, the Sum of *one Hundred Pounds*; and for any other Harm as aforesaid, double the Damage sustained thereby; to be ordered and set upon them by the Justices of the same County in Quarter Sessions; who are hereby impowred thereto; and to render like Recompence for any Carriage, Cart, Horse, or other Beast harmed or lost, proportionable to the Damage suffered.

Penalty on
Surveyers
refusing to
accept, or
neglecting
their Duty.

And if any Person chosen a Surveyer, shall refuse to accept and take his Oath, he shall forfeit *Twenty Shillings*; and having accepted do neglect his Duty, shall forfeit for every Neglect *five Pounds*: The said Forfeitures respectively to be to the Use of the Town; and to be recovered by Complaint before the next Justice of Peace, or at the Sessions of the Peace in the same County.

No Person to be charged above a due Proportion to the High-Ways, either in Labour or Teams.

CHAP. IX.

An Act for Regulating of Fences, Cattel, &c.

Preamble.

FOR the better preventing of Damage in Corn-Fields, and other improved and common Lands, by Horses, Neat Cattle, Sheep or Swine, going at large :
Be

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That in every Town and Peculiar within this Province, there be annually chosen by the Inhabitants thereof (at the time of their Meeting to choose Select-Men and other Town Officers) two or more meet Persons, to be Viewers of Fences; who shall be Sworn before a Justice of Peace to the faithful Discharge of their Office, in the Particulars committed to their Care by this Act: As also two or more Persons for Haywards or Field-Drivers. And that all Fences of four Foot high, being of five Rails, or four that are equivalent, Boards, Stone-Wall, Brooks, Rivers, Ponds or Creeks, equivalent thereto, in the Judgment of the Fence-Viewers, shall be accounted sufficient Fences: And all Fences in common Fields and other Grounds under Improvement, that shall be judged insufficient by the Fence-Viewers, and Notice thereof given to the Party that of Right ought to maintain the same; he shall sufficiently repair and amend all Defects therein within the Space of six Days next after such Notice given him: And in Case of his Neglect, the Fence-Viewers are hereby impowered and ordered forthwith to cause such defective Fence or Fences to be sufficiently made up and repaired; and the Person or Persons to whom it belongs to make good such Fence, shall pay double the Cost and Charge expended for doing of the same. And in case of refusal or neglect to make Payment as aforesaid, by the Space of one Month next after an Account presented, and Demand thereof made; such Fence-Viewers may recover the same by Action, Plaint or Information, to be brought before any Justice of the Peace within the same County, if the Sum exceed not *Forty Shillings*; but if it be above that Sum, then in the Inferiour Court of Common Pleas.

Fence Viewers to be chosen and Sworn.

Haywards or Field-Drivers.

Fences of four Foot high to be accounted sufficient.

Penalty for not repairing insufficient Fence

4 W. & M. ca. 13.
10 W. ca. 4 & 9.
2 G. ca. 2.
7 & 8 G. ca. 3.
12 G. ca. 5.
1 G. 2. ca. 10.
16 G. 2. ca. 5.

How to be recovered.

And it is further enacted by the Authority aforesaid, That no Persons other than Proprietors and Freeholders in any Town or Peculiar, shall let any Horse or Horse-kind run to feed upon any common Land belonging to such Town or Peculiar, and every such Proprietor and Freeholder may keep one Horse-Beast upon the Common, and no more; except such Proprietors and Freeholders, every of whom have a rateable Estate within such Town or Peculiar, of the Value of *Fifty Pounds*, they to have the Privilege of two and no more.

None but Proprietors and Freeholders to have any Horse run to feed on the Common.

And the Owners of all Horse-kind going upon the Common, are required to cause the same to be entered with the Town-Clerk, who is to keep a Book for that Purpose, and therein set down as well the natural as artificial Marks, and for every such Horse or Horse-kind, shall pay a Fee of *Three Pence* to the Clerk for his entry: Such entry to be made at or before the tenth Day of *April* next, and so annually; on Pain that every Person neglecting so to do, shall forfeit and pay the Sum of *ten Shillings* for each Default. And if any Freeholder or Proprietor shall desire to put more Horses upon the Common than is herein before allowed, he shall first repair to the Town Clerk, and make entry of the Number and Marks thereof as aforesaid, and pay the Fee as aforesaid for every such Entry, as also the Sum of *Five Shillings* per Head, per Annum, to the Use of the Proprietors of such Commons, on pain of forfeiting the Sum of *ten Shillings* per Head for such Neglect.

Horses going on the Common, to be entered with the Town Clerk.

And every Town and Peculiar within this Province are required to choose annually two meet Persons to see to the due Observance of this Act relating to Horses, and to prosecute the Breakers thereof: And if any Person so chosen shall refuse to serve, or neglect his Duty in any of the Particulars herein committed to his Care, he shall forfeit and pay the Sum of *twenty Shillings* to the Use of such Town.

Persons to be annually chosen, to see to the observance of this Act.

And the Town Clerk of each Town respectively shall once in the Year give an Account and pay in to the Select-men of the Town, so much as he shall receive by Vertue of this Act for any Horse-kind going upon the Common.

Town Clerk to account annually.

All Penalties and Forfeitures arising for Breach of this Act relating to Horses going upon the Common, shall be one Moiety thereof unto the Use of the Persons to be appointed to see to the Observance of this Act, and the other Moiety to him or them that shall inform and sue for the same, before any Justice of the Peace within the County.

Penalties and Forfeitures how to be disposed.

And

Regulation of Seamen.

Swine to be
yoked and
ringed.

And be it further enacted by the Authority aforesaid, That all Swine going at large on the Commons, shall be sufficiently yoked, from the first of *April* to the fifteenth of *October* yearly; and ringed in the Nose all the Year. And if any Swine be found unyoked or unringed, their Owners shall be liable to pay *six Pence per Head*; and if found Damage feasant being unyoked or unringed to pay *Twelve Pence per Head*, over and above double Damages to the Party injured. And the Hayward or Field-Driver or any other Person may take up and impound such Swine.

Fee for im-
pounding

And that there be paid unto the Hayward or Field-Driver, *one Shilling* per Head for all Neat Cattel or Horses, and *three Pence* per Head for all Sheep and Swine by him impounded: And to the Pound-keeper *two Pence* per Head for all Neat Cattel or Horses, and *one Penny* per Head for all Sheep or Swine, for taking in and letting out, to be paid by the Owners of such Creatures.

Penalty for
Sheep going
on the Com-
mon without
a Keeper.

And that for every Sheep in every Town going on the Commons without being under the Hands of a Shepherd, from the first of *May* to the last of *October*, in every Year; the Owners or Keeper of the said Sheep, shall pay the Sum of *three Pence* for every Sheep at any Time so found running on the Common, not under the Hand of a Shepherd or Keeper, betwixt the first of *May*, and last of *October* yearly.

C H A P. X.

An Act for Regulation of Seamen.

Preamble.

WHEREAS great Loss and Damage is frequently occasioned to Trade and Navigation by Seamen deserting their Employ or Voyage they are entered upon; or being taken off from the same, by Arrest and Restraint for Debt, or Pretence thereof:

For Remedy whereof:

No Mariner
or Seaman to
be arrested for
any Debt made
whilst he be-
longs to a
Ship, &c.

It is declared and enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Innkeeper, Victualler, Seller of Wine or strong Liquors, Shop-keeper, or any other Person whatsoever, shall trust or give Credit to any Mariner or Seaman belonging to any Ship or other Vessel, without the Knowledge and Allowance of the Master or Commander thereof; no Process or Attachment for any Debt so contracted without Knowledge and Allowance as aforesaid, shall be granted against or served upon such Mariner or Seaman, until he shall have performed the Voyage he is then entered upon, and be discharged of the same: And every Process granted contrary hereunto, and serving thereof, shall be deemed and adjudged utterly void in Law: And any Justice of the Peace within the same County before whom it shall be made appear, that any Mariner or Seaman belonging to any Ship or Vessel, is committed or restrained upon Process granted for any Debt or Pretention of Debt made whilst such Mariner or Seaman was engaged and actually entred and in pay on any Voyage, shall forthwith order his Release.

Penalty on
Masters ship-
ping Seamen
first entertain-
ed on board
another Ship,
&c.

And be it further enacted by the Authority aforesaid, That if the Master or Commander of any Ship or other Vessel, shall ship any Seaman, knowing him to be first entertained and ship'd on Board another Ship or Vessel, or after Notice thereof given him, shall not forthwith dismiss him; every such Master or Commander so offending, being thereof convicted, shall forfeit and pay the Sum of *Five Pounds*; one Moiety thereof to the Use of the Poor of the Town where the Offence was committed, and the other Moiety to him or them that shall inform and sue for the same, by Action, Bill, Complaint or Information in any Court of Record; and such Seaman so shipping himself, shall forfeit and pay the Value of one Months Wages that he shall so agree for, to be recovered, employed and disposed of in manner as aforesaid.

Seamens Pe-
nalty.

Seamen de-
serting their
Service to be
Imprisoned.
12 H. ca. 2.

And further it is enacted, That if any Mariner or Seaman having ship'd himself on Board any Ship or other Vessel to proceed in any Voyage, and under pay (the same being made to appear by his Hand set to the Master's Book, or other

Representatives.

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other Writing of such Agreement) shall neglect his Attendance and Duty on Board, and absent himself from his said Service, upon Complaint thereof made to any Justice of the Peace within the same County, such Justice is hereby empowered to convent such Mariner or Seaman before him; and upon Conviction of his so absenting himself as aforesaid, to commit him to Prison, that so he may be secured and forth-coming to proceed on the Voyage he has so agreed to, and to be delivered by Order of the Justice that committed him, or some other Justice in the same County.

C H A P. XI.

An Act to prevent Default of Appearance of Representatives to serve in the General Assembly.

WHEREAS there has been a Neglect in some Sheriffs in Observation of their Majesties Writ to them directed, for the convening and holding of a Great and General Court or Assembly, timely to issue forth their Precepts unto the several Towns within their Bailiwick or Precinct, for the choosing of Representatives to serve in the Great and General Court or Assembly; and have also not taken due Care to have Returns of their said Precepts. And for-as-much as many Persons elected for Representatives, and having Summons, are not careful to give their Attendance accordingly in due Time; whereby the publick Affairs for their Majesties Service are prejudiced:

Preamble.

See the Act 4 W & M. ca. 19.

For Remedy whereof:

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, it is ordained and enacted, That every Sheriff upon Receipt of their Majesties Writ for the convening and holding of a Great and General Court or Assembly, shall forthwith make out his Precepts under his Seal in Form as by Law is directed, unto the Select-men of the several Towns within his County, and cause the same to be safely conveyed and delivered unto one or more of such Select-men, within the space of seven Days at furthest next after his Receipt of such Writ as aforesaid; and shall likewise take effectual Care for having his Precepts returned to him again from the said Towns respectively, with what shall be done pursuant thereto, by the Day therein prefixed, and cause the same to be brought in to the Secretary's Office as by Writ he is commanded.

Sheriffs to make out their Precepts in seven Days after Receipt of their Majesties Writ.

And the Select-men of each Town upon Receipt of the Sheriff's Precept, shall cause the Freeholders and other Inhabitants of the said Town duly qualified as in the said Precept is mentioned, to be assembled and meet at such Time and Place as the Select-men or the major Part of them shall appoint, to elect and depute one or more Representatives for such Town, as by Law they may, and shall cause the Person or Persons so elected and deputed by the major Part of the Electors present at such Meeting, to be timely notified and summoned by one or more of the Constables of the said Town, to attend their Majesties Service in the Great and General Court or Assembly, upon the Day, and at the Time and Place appointed for holding of the same: And the Select-men or the major Part of them, shall make Return of such Election under their Hands upon the said Precept, or annexed thereto, in Manner and Form as by Law is prescribed; and cause the same to be delivered unto the Sheriff of the County, at or before the Day therein prefixed for return of the same; on Pain that every Sheriff neglecting his Duty in any of the Particulars before mentioned, shall forfeit and pay the Sum of Fifty Pounds.

Select-men to cause the Town to be assembled for choice of Representatives.

Penalty on Sheriffs for Neglect of Duty.

And every Select-man or Constable in any Town neglecting his Duty in any of the Particulars before mentioned, shall incur the Pain and Forfeiture of Five Pounds.

Penalty on Select men & Constables.

And every Sheriff shall be allowed for his Trouble and Charge in sending out his Precepts, Forty Shillings, to be paid out of the County Treasury.

Sheriffs Allowed cc.

Select-mens
Allowance.

And the Select-men to be paid by the Town for the Charge of returning their Precept, for which shall be paid *three Pence* a Mile.

Penalty for
Representa-
tives Non-at-
tendance the
first Day of
the Court.

And be it further enacted by the Authority aforesaid, That every Person elected to serve as a Representative for any Town in any Great and General Court or Assembly, and being summoned thereto, shall give his Attendance at the said Court on the first Day appointed for the Court's Sitting (without reasonable and just Excuse for his Absence, being made and allowed of by the House of Representatives, on Pain of forfeiting the Sum of *Forty Shillings*; unless such Person being present at the Election, shall declare unto the Assembly his Non-acceptance of the Service; or upon Notice thereof given him, shall forthwith signify his Non-acceptance unto the Select-men by Writing under his Hand: In which Case, the Select-men shall call the Town together again to elect a-new, that so they may enjoy their Privilege.

Representa-
tives to be
Freeholders
and Resident.

That not any Town in this Province shall chuse any Representative, unless such be a Freeholder and Resident in that Town or Towns, such are chosen to represent.

Penalty on
Persons vo-
ting, being
not qualified.

And if any Person not duly qualified according to Law, shall presume to vote in the Choice of Representatives, one or more for any Town; or shall put in more than one Vote for any one Person in such Choice, being thereof convicted; he shall forfeit and pay the Sum of *Five Pounds*, one Moiety thereof unto their Majesties for and towards the Support of the Government, and the other Moiety to him or them that shall inform and sue for the same.

All Persons shall put in their Votes unfolded to the Select-men or Constables appointed to receive the same.

Voters questi-
oned, to make
Oath.

And that where any Person offering to give in his Votes for Representatives in any Town, shall be questioned by the Select-men of the said Town as to his being capable by Charter to vote; the said Person or Persons giving his or their Oath that they are *boni fide* worth *forty Pounds* Sterling, or an Estate of Freehold to the Value of *forty Shillings per Annum*, before a Justice of the Peace, or in the Absence of a Justice of the Peace, before the Town Clerk, who is hereby impowered to administer the same, he or they shall be accounted capable of voting, and put in his or their Votes accordingly.

Fines and
Forfeitures
how to be
disposed.

All Fines and Forfeitures arising for Breach of this Act or any Branch thereof, and not otherwise therein before disposed of, shall be unto their Majesties, for and towards the Support of the Government; and be recovered by Action, Bill, Plaint or Information, in any of their Majesties Courts of Record.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay*, in *New-England*, begun at *Boston* the eighth Day of *November*, 1693. and continued by Adjournment unto the fourteenth Day of *February*, following.

CHAP. I.

An Act for the better Rule and Government of the *Indians* in their several Places and Plantations.

10 W. ca. 6.
12 W. ca. 10.
13 W. ca. 21.

TO the Intent that the Indians may be forwarded in Civility and Christianity; and that Drunkenness, and other Vices be the more effectually suppressed amongst them:

2 A. ca. 4.
11 A. ca. 5.

4 G. ca. 6.
6 G. ca. 2.

21 G. 2. ca. 3.

Be it enacted and ordained by the Governour, Council and Representatives in General Court assembled, and it is enacted by the Authority of the same, That his Excellency the Governour, by and with the Advice and Consent of the Council, may, and is hereby impowered to appoint

Government of the Indians.

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appoint and commissionate one or more discreet Persons within several Parts of this Province, to have the Inspection and more particular Care and Government of the Indians in their respective Plantations ; and to have, use, and exercise the Power of a Justice of the Peace over them, in all Matters Civil and Criminal ; as well for the hearing and determining of Pleas betwixt Party and Party, and to award Execution thereon ; as for the examining, hearing and punishing of criminal Offences, according to the Acts and Laws of the Province, so far as the Power of a Justice of Peace does extend. As also to nominate and appoint Constables, and other proper and necessary Officers amongst them.

Commissioners to be appointed in several Parts, to have the more particular Care and Government of the Indians.

And be it further enacted by the Authority aforesaid, That no Person or Persons whosoever, shall directly or indirectly, sell, truck, barter or give to any Indian, any strong Beer, Ale, Cyder, Perry, Wine, Rum, Brandy, or other strong Liquors, by what Name or Names soever called or known ; on Pain of forfeiting the Sum of *forty Shillings* for every Pint ; and proportionably for any greater or lesser Quantity so sold, truck'd, bartered, given or delivered to any Indian directly or indirectly as aforesaid ; upon Conviction thereof before a Justice of the Peace, where the Penalty does not exceed *forty Shillings* ; and if it exceed that Sum, at the Sessions of the Peace to be holden for the same County where the Offence is committed : one Moiety of all such Forfeitures to be unto their Majesties, for and towards the Support of the Government ; and the other Moiety to him or them that shall inform and prosecute the same, by Bill, Complaint, or Information. And if the Offender be unable, or shall not forthwith pay and satisfy the said Penalty or Forfeiture, then to be committed to the Goal of the County ; there to remain until he pay and satisfy the same, or suffer two Months Imprisonment.

Penalty for selling strong Drink to Indians.

Provided, This Act shall not be intended or extend, to restrain any Act of Charity for relieving any Indian (*bonâ fide*) in any sudden Exigent or Faintness or Sickness, not to exceed one or two Drams ; or by Prescription of some Physician in writing, or by the Allowance of a Justice of Peace.

And for the better Discovery of such ill disposed Persons, who through Greediness of filthy Lucre, shall privately sell, or deliver strong Liquors, or strong Drink, to any Indian or Indians : (of which it is difficult to obtain positive Evidence, other than the Accusation of such Indian or Indians :) And to the Intent that Murders, and other Outrages frequently occasioned thereby, may be prevented :

It is ordained and enacted, That the Accusation and Affirmation of any Indian, with other concurring Circumstances ; amounting to an high Presumption in the Discretion of the Court, or Justices ; who have Cognizance of the Case ; (the Accuser and the Accused being brought Face to Face at the Time of Trial) shall be accounted and held to be a legal Conviction of the Person so accused, of giving, selling or delivering Wine, Rum, or any other strong Drink or Liquors to such Indian ; unless the Party accused shall acquit him or herself thereof upon Oath ; which the Court or Justice respectively are hereby empowered to require, and administer unto the Person accused, in Form following: *That is to say,*

Indian Accusation, with concurring Circumstances, to amount to a Conviction : Unless, &c.

YOU A. B. do Swear, That neither your self, nor any other by your Order, general or particular, Assent, Privy, Knowledge or Allowance, directly or indirectly, did give, sell or deliver, any Wine, Cyder, Rum or other strong Liquors or Drink, by what Name or Names soever called or known, unto the Indian by whom and whereof you are now accused. So help you GOD.

Form of the Oath.

And further it is enacted, That it shall and may be lawful to and for any Person or Persons to seize any Wines, strong Liquors or Cyder, which he or they may find in the Custody of any Indian, nor obtained by Allowance as aforesaid ; (other than Cyder made of Fruit of their own Growth) and to deliver the same unto the Constable, or one or more of the Select-men of the Town, where the same shall be seized ; to and for the Use of the Poor of such Town ; and to apprehend such Indian, and to cause him or her to be conveyed before the next Justice of the Peace, to be examined, where and of whom they had such strong Drink.

Strong Drink found with Indians, to be seized.

Relief of distracted Persons.

Penalty for
Indians con-
victed of
Drunkenness.

And every Indian convicted of Drunkenness, shall suffer and pay unto the Use of the Poor of the Town or Place where such Offence is committed, the Sum of *five Shillings*; or else be openly whipped by the Constable of such Town or Place, or some other that he shall procure, not exceeding ten Lashes; as the Justice of Peace before whom such Conviction is, shall determine.

C H A P. II.

An Act for the Relief of Idiots and distracted Persons.

Select-men or
Overseers of
the Poor, to
make necessa-
ry Provision
for the Relief
of Idiots, and
distracted Per-
sons.

Additional
Act.
7 A. ca. 2.
6 G. ca. 3.

Court of
Quarter Sessi-
ons to order
the Estate of
such Persons
for Improve-
ment.

The Justices
of the Superi-
our Court, to
Licence the
Sale of Hou-
sing or Land
of distracted
Persons, in
case.

W E it enacted by the Governour, Council and Representatives, in Ge-
neral Court assembled, and by the Authority of the same, That when
and so often as it shall happen any Person to be naturally wanting of
Understanding, so as to be incapable to provide for him or her self: or by the
Providence of God, shall fall into Distraction, and become *non compos mentis*;
and no Relations appear that will undertake the Care of providing for them; or
that stand in so near a Degree as that by Law they may be compelled thereto: In
every such Case, the Select-Men or Overseers of the Poor of the Town or
Peculiar where such Person was born, or is by Law an Inhabitant; be, and
hereby are impowered and enjoined to take effectual Care, and make necessary
Provision for the Relief, Support, and Safety of such impotent or distracted
Person, at the Charge of the Town or Place whereto he or she of Right be-
longs, if the Party has not Estate of his or her own, the Incomes whereof may
be sufficient to defray the same: And the Justices of the Peace within the same
County, at their General Sessions, may order and dispose the Estate of such im-
potent or distracted Person to the best Improvement and Advantage towards
his or her Support; as also the Person to any proper Work or Service, he or
she may be capable to be employed in; at the Discretion of the Select-Men or
Overseers of the Poor. And where the Estate of any such Person consists of
Housing or Land, in every such Case the Justices of the Superiour Court of
Judicature, upon Application to them made, may, and hereby are impowered to
licence and authorize the Select-Men or Overseers of the Town or Place where-
to such Person belongs; or such others as the said Justices shall think fit, to
make Sale of such Housing or Land; the Produce thereof upon Sale to be
secured, improved and employed to and for the Use, Relief and Safety of such
impotent or distracted Person, (as the said Justices shall direct) as long as such
Person shall live; or until he or she be restored to be of sound Mind. And the
over-plus (if any be) to and for the Use of the next and right Heirs of such Party.

And the like Power and Authority is hereby granted unto the Justices of the
Superiour Court, with Reference to any Person or Persons now under Distraction,
or *non compos mentis*, as well for the satisfying of the Charges already past, as
for what may be future, for the Support, Relief and Safety of any such Per-
son.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Pro-
vince of the *Massachusetts-Bay* in *New-England*, begun and held
at *Boston* the thirtieth Day of *May*, 1694.

C H A P. III.

**An Act for ascertaining the Fees of the Messenger attending
the House of Representatives.**

W E it enacted and ordained by his Excellency the Governour, Council
and Representatives, in General Court assembled, and it is enacted
by the Authority of the same, That there shall be paid to the Mes-
senger attending upon the House of Representatives for the time being, out of the

Messengers Fees.

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the publick Revenue of this their Majesties Province, the Sum of *Three Shillings* per Diem, for every Day that the said Messenger shall attend upon, or be employed in the Service of the said House of Representatives. And further, that the said Messenger shall, and may demand, recover and receive, of all and every Person arrested, imprisoned, or taken into Custody by Warrant from the House of Representatives, *Three Shillings* for the Service of such Warrant of Arrest, with travelling Fees, after the Rate of *three Pence* per Mile out, and also *three Shillings* per Diem, for safe keeping and providing for such Person so apprehended and taken into Custody; and *three Shillings* more upon the Dismission or Release of the Party: Any Law, Custom or Usage to the contrary notwithstanding; except it be a Member of the House that is so sent for, and then the Fees to be paid shall be less as the House shall appoint.

And it is hereby further declared, That the travelling Fees mentioned in the Act for regulating Fees, allowed to Sheriffs, Marshals or Constables, for the Service of Writs, is to be alike understood of *three Pence* per Mile from Home, and no more.

Messengers
Fee 3s. per
Diem
See the Tem-
porary Acts.
3s. for Ser-
vice of a War-
rant of Arrest.
Travelling
Fees 3d per
Mile out.
3s. per Diem
for each Per-
son in Custody
&c.

Sheriffs &c.
travelling Fees
only 3d per
Mile out.

C H A P. IV.

An Act against Adultery and Polygamie.

WHEREAS the Violation of the Marriage Covenant is highly provoking to God, and destructive to Families: Preamble.

Be it therefore enacted by the Governour Council and Representatives in General Court assembled, and by the Authority of the same, That if any Man be found in Bed with another Man's Wife, the Man and Woman so offending, being thereof convicted, shall be severely Whip'd, not exceeding thirty Stripes; unless it appear upon Trial, that one Party was surprized and did not consent; which shall abate the Punishment as to such Party.

And if any Man shall commit Adultery, the Man and Woman that shall be convicted of such Crime before their Majesties Justices of Assize and General Goal Delivery, shall be set upon the Gallows by the space of an Hour, with a Rope about their Neck, and the other End cast over the Gallows; and in the Way from thence to the common Goal, shall be severely Whip'd, not exceeding forty Stripes each: Also every Person and Persons so offending, shall for ever after wear a Capital A of two Inches long, and proportionable bigness, cut out in Cloth of a contrary Colour to their Cloaths, and sewed upon their upper Garments, on the out-side of their Arm, or on their Back, in open View. And if any Person or Persons, having been convicted and sentenced for such Offence, shall at any time be found without their Letter so worn, during their Abode in this Province, they shall by Warrant from a Justice of the Peace, be forthwith apprehended, and ordered to be publicly Whip'd, not exceeding fifteen Stripes; and so from Time to Time, *totie quoties*.

And be it further enacted by the Authority aforesaid, That if any Person and Persons within this their Majesties Province being married, or which hereafter shall marry, do at any Time after the first of *July* in this present Year, *One Thousand six Hundred ninety four*, presume to marry any Person or Persons, the former Husband or Wife being alive; or shall continue to live so married, that then every such Offence shall be Felony; and the Person and Persons so offending shall suffer Death, as in Cases of Felony; And the Party and Parties so offending, shall receive such and the like Proceeding, Trial and Execution, in such County where such Person or Persons shall be apprehended, as if the Offence had been committed in such County where such Person or Persons shall be taken or apprehended.

Provided always, That this Act or any thing therein contained, shall not extend to any Person or Persons whose Husband or Wife, shall be continually remaining beyond the Seas, by the space of seven Years together; or who e Husband or Wife shall absent him or her self, the one from the other, by the space

Punishment
for Adulterers.

Polygamie to
be punished
as Felony.

Saving for
Persons where
Husband or
Wife shall be
absent seven
Yer &c.
to W. ca 10.

Towns, Villages, &c. enabled to sue.

Saving for
Persons divor-
ced, or marri-
ed within the
Age of Con-
sent.

space of seven Years together in any Part within their Majesties Dominions, or else where; the one of them not knowing the other to be living within that Time.

Provided also, That this Act or any thing therein contained, shall not extend to any Person or Persons, that are or shall be at the Time of such Marriage divorced by any Sentence had, or hereafter to be had, as the Law of the Province in that Case has provided; or to any Person or Persons, where the former Marriage has been, or hereafter shall be, by such Sentence had, declared to be Void and of no Effect: Nor to any Person or Persons, for or by Reason of any former Marriage had or made, or hereafter to be had or made within the Age of Consent: *That is to say*, The Man fourteen Years of Age, the Woman twelve.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, begun at *Boston* the thirtieth Day of *May*, 1694. And continued by Adjournment unto the sixteenth Day of *October* following.

C H A P. V.

An Act to enable Towns, Villages, and Proprietors in Common and Undivided Lands, &c. to sue and be sued.

Preamble.

WHEREAS amongst other Things in their Majesties Royal Charter for Incorporation of this Province; It is contained and granted in these Words following: That is to say, “ *Provided nevertheless*, “ And we do for Us, Our Heirs and Successors, grant and ordain, that all and “ every such Lands, Tenements and Hereditaments and other Estates, which “ any Person or Persons, Bodies Politick or Corporate, Towns, Villages, Colleges “ or Schools, Do hold and enjoy, or ought to have, hold and enjoy within the “ Bounds aforesaid, by or under any Grant or Estate, duly made or granted by “ any General Court formerly held, or by Vertue of the Letters Patent herein “ before recited, or by any other lawful Right or Title whatsoever; shall be “ by such Person or Persons, Bodies Politick and Corporate, Towns, Villages, “ Colleges or Schools, their respective Heirs, Successors and Assigns for ever “ hereafter, held and enjoyed according to the Purport and Intent of such res- “ pective Grant, &c.

4 W. & M.
ca. 13.

12 A. ca. 1.

And whereas by one Act of the General Court Intituled, An Act for the Regulating of Townships, &c. Amongst other Things, It is enacted, That the Proprietors of the Undivided or Common Lands within each Town or Precinct in this Province, where the same have been heretofore stated, each one's Proportion being known, shall, and hereby are impowred to order, improve or divide in such Way and Manner, as shall be concluded and agreed upon by the major Part of the Interested. And the Proprietors of all Undivided or Common Lands not stated and proportioned as aforesaid, shall and hereby are impowred to manage, improve, divide and dispose of the same, as hath been or shall be concluded and agreed on by the major Part of such Proprietors.

Now for the better enabling the said Persons, Towns, Villages, Trustees for Schools and Proprietors aforesaid, to maintain, recover and defend their Grants, Lands, Interests, and Estates:

Persons,
Towns, Villages &c. to sue
or defend in
any Court.

Be it enacted and declared by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That it shall and may be lawful for all and every the said Persons, Towns, Villages, Precincts, Trustees for Schools and Proprietors in Common and Undivided Lands,

Regulation of Ferries.

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Lands, Grants, and other Estates or Interests whatsoever, to sue, commence and prosecute any Suits or Actions in any Court proper to try the same, either by themselves or their Agents or Attorneys, to be appointed by such as have in them the major Part of the Interest : And in like Manner to defend all such Suits and Actions as shall be commenced against them or any of them.

And further be it enacted by the Authority aforesaid, That all and every Town, Village and Precinct, and Proprietors in Common or Undivided Lands, which shall have Occasion to sue or shall be sued ; may, at a Meeting of the Inhabitants of such Town, Village or Precinct, or Proprietors aforesaid, orderly warned, by the major Vote of such as shall meet, chuse Agents or Attornies to prosecute for, or defend them, such Choice being certified by the Clerk of such Town, Village, Precinct or Proprietors, or by such other Person as they shall appoint.

Towns, Villages, &c. to chuse Agents or Attornies to prosecute for, or defend them.
2 G. ca. 4.

And when any Town, Village, Precinct or Proprietors aforesaid, shall be sued, it shall be sufficient Notice to oblige them to appear and answer, to leave a Writ or Summons with their Clerk, or other principal Inhabitant or Proprietor (briefly declaring the Case) fourteen Days before the Sitting of the Court, where the Case is to be heard ; as in other Actions is provided.

How Summons shall be given to oblige Towns, &c. to answer.

C. H. A. P. VI.

An Act for Regulating Ferries.

TO the Intent that all Ferries within this Province be duly kept, and constantly attended for the Ends whereunto they are appointed :

Preamble.

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That henceforth no Person or Persons whatsoever, shall attempt to keep a Ferry (so as to demand Pay) without special Licence first had and obtained from their Majesties Justices in Quarter Sessions of that County where such Ferry is ; who are hereby impowred to grant Licences to such Persons as they shall judge meet for that Service, in their respective Counties ; and to state the Fare or Prices of each Ferry, both for Man and Beast, according to the Nature and Breadth of such River, or Water they are to pass over ; taking Bond of each Ferry-Man for the faithful Discharge of his Place (except such Ferries as are already stated and settled, either by the Court or Towns to whom they appertain) : And all Ferry-Men are hereby enjoined to keep a good Boat or Boats in good Repair, suitable to the Waters they are to Ferry over ; and also to give ready and due Attendance on Passengers upon all Occasions, on Penalty of five Shillings for every Default of Non-Attendance ; and for want of a good Boat kept in good Repair to pay five Pounds ; the one Half to their Majesties for and towards the Support of the Government, the other Half to him or them that shall inform and sue for the same, before a Justice of the Peace or at the Quarter Sessions respectively, besides what Damage may accrue to any Person through the Ferry-Man's Default.

Additional Acts.
2 H. ca. 7.
9. A. ca. 1.
11. A. ca. 1.
4 G. ca. 4.
11 G. ca. 4.
13 G. ca. 1.
27 G. 2. ca. 7.

Ferry-men to be licensed by the Quarter Sessions.

To give Bond.

Penalties for Non-attendance, and not keeping good Boats.

And further it is enacted, That the General Post that is settled for their Majesties, and the Countries Service, be readily dispatched, and set over by all Ferry-Men where they shall come without any Delay. And if any Ferry-Man shall be complained of, and duly convicted before any Justice of the Peace, for delaying any Post, and not forthwith ferrying of him over, he shall forfeit the Sum of Twenty Shillings unto their Majesties for and towards the Support of the Government.

Penalty for delaying the Post.

And that Boats be constantly kept on either Side of the Water at Charlestown Ferry, for the more speedy Transportation of Passengers, the Ferry-Men on each Side to have a separte Interest ; and that the Ferry be not from henceforth Leased out, otherwise. And all the Members of the General Assembly shall be Ferriage free at all Ferries in their passing to and from the Assembly, and shall be transported without any unnecessary Delay, on pain of forfeiting Twenty Shillings as above said.

Assembly-men to pass Ferriage free.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, begun at *Boston* the thirtieth Day of *May*, 1694. And continued by several Adjournments unto the twenty-seventh Day of *February* following.

C H A P. I.

An Act for reviving of Actions and Proceſs, lately depending in the Superiour Court of Judicature, Court of Aſſize and General Goal Delivery, within the County of *Effex*, and diſcontinued by the not holding of the ſaid Court at *Salem* upon the ſecond Tueſday in *November*, 1694.

Preamble.

WHEREAS by Reason of Sickneſs, and other more weighty Occaſions of the Province intervening; the Superiour Court of Judicature, Court of Aſſize and General Goal Delivery, could not be held and kept, at the Time prefixed by Law for the Sitting of the ſame at *Salem* within the County of *Effex*, upon the Second Tueſday in *November*, in the Year of Our Lord, One Thouſand ſix Hundred Ninety and Four: For which, if due Provision be not made, great Delay of Juſtice, and conſequently great Expences to the Suitors in the ſaid Court will enſue: Therefore for the Continuing and Reviving all, manner of Actions or Pleas lately depending, and all manner of Proceſs that were returnable or depending in the ſaid Court, and which were diſcontinued and put without Day by the not holding the ſaid Court:

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court aſſembled, and by the Authority of the ſame, That all Pleas, Writs, Actions, Suits, Complaints, Proceſs, Precepts or other Things whatſoever, that were returnable, or had Day or Days in the ſaid Superiour Court of Judicature, or Aſſize and General Goal Delivery, to have been holden and kept as aforeſaid; ſhall ſtand continued, and be revived, and are hereby continued and adjourned unto, and ſhall and may be pleaded, heard and proceeded upon at the next Superiour Court of Judicature, Court of Aſſize and General Goal Delivery within the ſaid County of *Effex*, to ſit at *Ipfwich* on the third Tueſday in *May* next enſuing.

And that all Parties that had Day by any Pleas, Writs, Bills, Actions, Suits, Complaints, Proceſs, Precepts, or other thing or things whatſoever at or in the ſaid Court, to have been kept at *Salem* as aforeſaid; ſhall reſpectively appear at the ſaid next Court to be holden at *Ipfwich*, under the Penalty of forfeiting any Obligations or Recognizances Conditioned for the Appearance of the ſaid Parties at the aforeſaid Court in *Salem*, or under any other Penalty that might have incurred upon the ſaid Parties, for not appearing at the ſaid Court in *Salem*, if the ſame had been there holden and kept.

Provided nevertheleſs, and it is not to be underſtood by any thing herein contained, That the Jurors choſen and ſummoned to ſerve at the ſaid Court at *Salem*, are obliged to appear and ſerve at the ſaid Court to ſit at *Ipfwich*; but that new Jurors ſhall be choſen to ſerve at the ſaid Court as of Courſe.

Provided alſo, That where it happens any Perſon or Perſons being Principals that were under Bond, Obligation or Recognizance for Appearance at the ſaid Court to have been holden at *Salem*, are ſince that removed and gone beyond Sea, or out of this Province, and ſhall not be returned before the Sitting of the next Court to be held at *Ipfwich*; it ſhall be in the Power of the Court

Sitting

Suppressing of Drunkenness.

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Sitting at *Ipswich*, upon Motion made on that Behalf, and they are accordingly to allow a Continuance of any such Bond, Obligation or Recognizance to such further Time as shall be thought necessary; that no Person concerned may be surprized or have Advantage unreasonably taken against them.

And be it further enacted by the Authority aforesaid, That when and so often as it shall happen the Superiour Court of Judicature, Court of Assize and General Goal Delivery, or the Inferiour Court of Pleas, in any of the respective Counties within this Province, cannot be held and kept on the Day by Law prefixed for the holding of the same by Reason of Death or Sicknesse befalling any of the Justices of such Court, or any providential necessary and unavoidable Let or Hindrance of their Attendance; it shall and may be lawful to and for any two of the Justices of such Court respectively by Writ under their Hands and Seals directed unto the Sheriff of the County, therein inserting the Occasion thereof, to Adjourn the said Court unto a further Day, as in the said Writ shall be expressed, at as little Distance of Time as possibly may be from the Day whereon by Law the Court should have sat, that so Justice be not deferred or delayed: And the Sheriff upon Receipt of the said Writ, shall cause Publication to be made of the same, at the usual Place of the said Court's Sitting, and some other of the most publick Places within the same County, and also to cause a Signification of such Adjournment, and the Time unto which it is made, to be posted up at or near the House or Place where the said Court uses to sit, and other publick Places as aforesaid; to the Intent that unnecessary Travel, Charge and Attendance of all Persons concerned may be prevented. And the Sheriff is to return such Writ with his Doings thereon into the Clerk's Office of such Court: And all Pleas, Writs, Actions, Suits, Complaints, Procefs, Precepts, Recognizances and other Thing and Things whatsoever returnable or having Day or Days in the said Court, shall stand, abide and continue unto the said Adjournment, and be held, deemed and adjudged to be as good, effectual and available in Law to all Intents, Constructions and Purposes, as if such Court had been held and kept on the Day by Law for holding of the same, and no Adjournment thereof had been made.

C H A P. II.

An Act for the more effectual suppressing of Drunkenness, and putting in Execution the Laws against such as shall presume to sell strong Drink without Licence.

WHEREAS divers Persons that obtain Licence for the Retailing of Wine and strong Liquors out of Doors only, and not to be spent or drunk in their Houses, do notwithstanding take upon them to give Entertainment to Persons to sit Drinking and Tipling there; and others who have no Licence at all, are yet so hardy as to run upon the Law, in adventuring to sell without; tending to the great increase of Drunkenness and other Debaucheries: such Houses not falling under the Inspection of Officers, as those that are Licensed:

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication hereof, every Person and Persons now Licensed or that shall hereafter obtain Licence to retail Wine and strong Liquors to be spent out of Doors, and not otherwise, who shall be convicted of entertaining or suffering any Person or Persons to sit drinking or tipling in their Houses, Cellars, Backsides, or within any of the Dependencies of such Houses; or of selling any other sort of Drink than what they have Licence for, shall incur and suffer the like Penalties and Forfeitures as may by Law be inflicted upon Persons selling without Licence: to be recovered and employed in Manner as by the said Law is directed.

And all Officers as well Grand-Jurors, Constables, Tything-Men, as the Officers employed in and about the collecting of the Excise, are hereby authorized and required diligently to see that this Act be duly observed; and to present

Preamble.

Retailers to sell no other sorts of Drink than what they are Licensed to, nor to suffer Persons to drink in their Houses, &c.

4 W. & M. ca. 7

Officers to inspect publick Houses, & to present such as sell without.

Penalty for
receiving any
Bribe, &c.

sent and inform of all Breaches of the same, either at the Court of General Sessions of the Peace, or to some Justice of the Peace; who are hereby respectively impowered to hear and determine the said Offence according to Law: as also alike to present or inform of any that shall presume to sell any Sort of strong Drink without Licence. And it shall and may be lawful to and for any of the aforesaid Officers respectively *ex Officio* to enter into and inspect the House of any Person having once been convicted of selling without Licence, as they may by Law into Licenced Houses. And if any of the before-mentioned Officers shall be convicted of taking or receiving any Bribe, Fee or Reward, directly or indirectly to connive at, conceal, or not to present or inform against any Person or Persons being Licenced to Retail for spending out of Doors only, that shall suffer Persons to drink or tipple in their Houses or any of the Dependencies thereof; or for any others who shall presume to sell without Licence; every Officer so offending, shall forfeit and pay three times the Value of all and every such Sum and Sums by him received as a Bribe, Fee or Reward; one Moiety thereof unto their Majesties for and towards the Support of the Government, and the other Moiety to him or them that shall inform and sue for the same in any of their Majesties Courts of Record. And if such Officer be one that is employed about the Excise, over and above the Forfeiture aforesaid, he shall *ipso facto* be discharged of and from his said Office, and be rendred incapable to be employed in any publick Service as an Officer, by the space of three Years next following.

Licence to be
forfeited upon
a third Con-
viction.

And be it further enacted by the Authority aforesaid, That if any Person licenced as a Taverner, Innholder or Retailer of Wine or strong Liquors out of Doors, shall transgress this Act or any other Law of the Province made for the Regulation of such Houses, in any of the Particulars therein mentioned, and shall be more than twice convicted of such Breach of Law within the compass of one Year; every Person so offending, over and above the Penalty in the Law for such Transgression, shall forfeit his or her Licence, not to be renewed again by the space of three Years next following.

Persons un-
able, or neglect-
ing to pay their
Fine, how to
be punished.

And if any Person or Persons duly convicted of the Breach of Law in any of the Particulars herein before-mentioned, or of selling without Licence, shall be unable, or neglect to pay and satisfy the Fine imposed by Law for such Transgression; it shall and may be lawful to and for the Court or Justice before whom the Conviction is, to order such Person or Persons either to stand committed to the Goal of the County by the space of twenty Days without Bail or Mainprize, or to be set in the Cage, or Stocks, to remain there, not exceeding the space of three Hours.

Select-men to
cause reputed
Drunkards,
&c. to be post-
ed up.
4 W. & M. ca. 6.

And it is further enacted by the Authority aforesaid, That the Select-men in each Town shall cause to be posted up in all publick Houses within such Town, a List of the Names of all Persons reputed Drunkards or common Tiplers, mispending their Time and Estate in such Houses: And every Keeper of such House after Notice given him as aforesaid, that shall be convicted before one or more Justices of the Peace of entertaining or suffering any of the Persons named in such List, to drink or tipple in his or her House, or any of the Dependencies thereof, shall forfeit and pay the Sum of *Twenty Shillings*; one Moiety thereof to him or them who shall inform of the same, and the other Moiety to and for the Use of the Poor of the Town where such Offence shall be committed.

Penalty on the
Keepers of
public Houses
giving them
Entertainment

C H A P. III.

An Act for preventing of Mens Sons, or Servants absenting themselves from their Parents or Masters Service without Leave.

Preamble.

W H E R E A S Complaint has been made by sundry Inhabitants of this Province, that they have sustained great Damage by their Sons and Servants deserting their Service without Consent of their Parents or Masters, being

Grand Jurors, &c.

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being encouraged to enter themselves on Board private Men of War, or Merchant Ships, and there entertained :

For Redress whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That no Commander of any private Man of War, or Master of any Merchant Ship or Vessel, coming into, tarrying or abiding in, or going forth of any Port, Harbour or Place within this Province, shall receive, harbour, entertain, conceal or secure on Board such Ship or other Vessel, or suffer to be there harboured or detained, any Man's Son being under Age, or Apprentice, or Covenant Servant (knowing him to be such, or after Notice thereof given) without Licence and Consent of his Parent or Master, in Writing under his Hand first had and obtained ; on Pain of forfeiting the Sum of *five Pounds* per Week, and so proportionably for a longer or shorter time than any Son, Apprentice or Servant, shall be held, harboured, concealed or detained on Board any such Ship or other Vessel as aforesaid, without Licence and Consent as aforesaid ; the one Moiety thereof unto their Majesties, to be employed towards the Support of the Government of the Province ; and the other Moiety unto the Parent or Master of such Son, Apprentice or Servant that shall inform and sue for the same, in any of their Majesties Courts of Record within this Province, by Bill, Plaint or Information ; wherein no Essoin, Protection or Wager of Law shall be allowed.

Penalty on Commanders or Masters of Ships, &c. for entertaining Mens Sons or Servants without Leave

5 G. ca. 1.
11 W. ca. 6.

And be it further enacted by the Authority aforesaid, That every Apprentice or Covenant Servant, who shall unlawfully absent himself from his Master, and enter himself on Board any Ship or Vessel as aforesaid, with Intent to leave his Master's Service ; or continue there more than the space of twenty-four Hours, and be thereof convicted before their Majesties Justices in General Sessions of the Peace within the same County ; shall forfeit unto his Master such further Service from and after the Expiration of the Term which his said Master had in him at the Time of his Departure, as the said Court shall order, not exceeding one Year.

Penalty on Servants deserting their Masters Service.

C H A P. IV.

An Act for Grand Jurors serving at the Quarter Sessions of the Peace, and punishing Defaults of Jurors Attendance.

To the Intent that due Inquiry and Presentment may be made unto the Court of Quarter Sessions of the Peace within the respective Count ^f *all Misdemeanours, Offences and Breaches of Law, proper to the Cognizance of the said Court, hapning within such County, for the suppressing and punishing of the same : and that Jurors may duly attend the Service for which they are chosen :*

Preamble.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Clerk of the Peace of each several County shall annually, fifteen Days at least before the Day for holding of the Court of Quarter Sessions of the Peace for such County, issue out Writs directed unto the Constables of the respective Towns within the same ; requiring them or one of them forthwith to warn a Meeting of the Inhabitants duly qualified by Law, for the chusing of one or more Grand Jurors, according to the Number such Town has been accustomed to send, or otherwise shall be appointed for them by the Justices of the said Court ; and the Person or Persons so chosen, to warn to appear at the next Court, and the following Courts of Quarter Sessions successively, to be holden for the same County within the space of one Year, and there to attend the Service belonging to them ; and to make Return of the said Writ with his Doings thereon accordingly unto the said Clerk's Office, before the opening of the said Court : And if any Constable shall fail of performing his Duty by the said Writ required, or seasonably to return the same, he shall forfeit and pay the Sum of *forty Shillings*. And the Persons chosen and returned as aforesaid appearing, shall be impanelled, and sworn a Grand Inquest for the Body of such County ; and shall continue in the said Office for the space of one full Year, and until

Grand Jurors to serve a full Year.
4 W. & M. ca. 17.

Their I

others be chosen and sworn in their Stead: whose Duty it shall be to inquire and duly present the Breach of all such good and wholesome Laws, as are or shall be established within this Province, and all such Misdemeanours as are proper to their Inquiry, and the Jurisdiction of the said Court.

Forty Shillings Fine for Non appearance.

And if any Person chosen to the said Office, and summoned by the Constable and so returned by him, shall make Default in Appearance, without reasonable Excuse made, and allowed of by the Court; the said Court shall and may set a Fine upon him, not exceeding the Sum of *forty Shillings*; and a new Writ shall issue forth unto the Town, to chuse another in his Room; and so likewise in Case of the removal of any by Death, or otherwise.

Petit Jurors making Default, to be fined, not exceeding 20 s. 3 G. ca. 5. Act to prevent Default in the appearance of Jurors.

And be it further enacted by the Authority aforesaid, That if any Person or Persons legally chosen, and summoned to serve upon the Petit Jury, for Trials in the Superiour Court of Judicature, Court of Assize, and General Goal Delivery, or in any of the Inferiour Courts of Common Pleas, or of General Sessions of the Peace, being so returned by the Constable under his Hand, shall make Default of Appearance, and not attend the said Service without reasonable Excuse made, and allowed of by such Court; every Person and Persons so offending, shall be fined by the said Court, (who are hereby impowered thereto) not exceeding the Sum of *twenty Shillings*.

10 W. ca. 10. Fines and Forfeitures to come to the County.

All Fines and Forfeitures accruing by Virtue of this Act, shall be paid in to the Treasurer of the County where the same do arise; and be employed towards the defraying the publick Charges of such County.

How to be Levied.

And in Case any Person or Persons sentenced to pay any of the said Fines or Forfeitures. shall neglect or refuse so to do, the same shall be levied by Distress and Sale of the Offenders Goods or Chattels, by Warrant from the Court that awarded the same, to be signed by the Clerk of the said Court; together with the incident Charges arising for taking such Distress, according to the Fees by Law allowed for levying of Executions; and *two Shillings* for the Warrant, to be paid unto the Clerk that granted the same.

Grand Jurors Allowance.

And all Grand Jurors shall be allowed by the County Treasurer the Sum of *two Shillings per Diem* each Man, during their Attendance on any Court: the Time to be certified unto the County Treasurer, by the Clerks of the respective Courts. And no Grand Juror shall be compelled to serve more than one Year in three; nor any Petit Juror, more than at one Court within the Compass of a Year.

6 G. 2 ca. 6. 1 G. ca. 5.

C H A P. V.

An Act for supplying the Defects in the Act Intituled, *An Act encouraging the killing of Wolves.*

5 W. & M. ca. 2. 2 G. ca. 3. 7 G. ca. 3.

Preamble.

WHEREAS by the Act Intituled An Act encouraging the killing of Wolves, made and passed at the Session of the General Assembly begun and held at Boston, the thirty-first Day of May, in the fifth Year of their present Majesties Reign; there is Provision for Payment to be made unto the Person or Persons who shall kill any grown Wolf or Wolves Whelp, out of the Town Stock, in which such Wolf is killed, or of the Town lying next adjacent thereto, and that the said Disburs, the same being made to appear, shall be allowed unto such Town, by the General Treasurer of the Province out of the publick Treasury: But for-as-much as there is no particular Direction in the said Act how or in what Manner such Payment out of any Town Stock, shall be made appear, so as to justify the Treasurer in allowing of the same; and the better to prevent any Fraud therein:

Constables & One or more Select-men to give Receipt for Wolves Heads.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Person or Persons killing any grown Wolf or Wolf's Whelp (other than such as shall be taken out of the Belly of any Bitch Wolf) within any Town of this Province, and bringing the Head thereof unto the Constable of such Town or of the Town next adjacent, the Constable in the Presence of one or more of the Select-men, shall cut both the Ears off the same, and such Select-man or Men and

Incestuous Marriages.

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and Constable, shall give the Party a Receipt for the said Head, expressing whether it be a grown Wolf or a Whelp; and upon producing such Receipt, the Party shall be paid and allowed by the Select-men or Treasurer of such Town, out of the Town Stock, for the same, as in and by the said Act is directed. And all such Payments so made shall be certified unto the Treasurer and Receiver General, under the Hands of the major Part of the Select-men in such Town, and Town Treasurer (where any such be) or Town Clerk, in Manner following: *That is to say,*

Mr. Treasurer,

This may certify, That there has been paid unto sundry Persons out of the Town Stock of A. for grown Wolves, and Wolves Whelps Certificate to the Treasurer.
kill'd in and near unto our Town, since the Day of last past, and the Heads thereof brought unto our Constables, and the Ears cut off in Presence of some of our Selves, as the Law directs, and so certified unto us, in the whole the Sum of Pounds which Sum we desire you to allow unto our Town, by discounting the same with B. C. Constable, out of the publick Assessment, committed to him to collect in our Town. Dated in A. aforesaid, the Day of
 Select-Men,
 Town-Treasurer,
 Or,
 Town Clerk.

And be it further enacted, That the Treasurer do cause a competent Number of blank Certificates in the Form aforesaid, to be printed at the publick Charge, and affix his own Seal thereto; and is hereby ordered to deliver so many unto the Select-men of each Town and Place respectively, or some one of them, as shall be necessary for the Use of such Town or Place.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay*, in *New-England*, begun and held at *Boston*, the twenty-ninth Day of *May*, 1695.

CHAP. VI.

An Act to prevent Incestuous Marriages.

ALTHOUGH this Court doth not take in Hand to determine what is the whole Breadth of the divine Commandment respecting unlawful Marriages: Yet for preventing of that abominable Dishonesty and Confusion which might otherwise happen: Preamble

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Man shall marry any Woman within the Degrees hereafter named in this Act, *That is to say,* No Man shall marry his Grandfather's Wife, Wife's Grand-Mother, Father's Sister, Mother's Sister, Father's Brother's Wife, Mother's Brother's Wife, Wife's Father's Sister, Wife's Mother's Sister, Father's Wife, Wife's Mother's Daughter, Wife's Daughter, Son's Wife, Sister, Brother's Wife, Wife's Sister, Son's Daughter, Daughter's Daughter, Son's Son's Wife, Daughter's Son's Wife, Wife's Son's Daughter, Wife's Daughter's Daughter, Brother's Daughter, Sister's Daughter, Brother's Son's Wife, Sister's Son's Wife, Wife's Brother's Daughter, Wife's Sister's Daughter. And if any Man have already married, or shall hereafter marry, or have carnal Copulation with any Woman who is within the Degrees before recited in this Act; every such Marriage shall be and is hereby declared to be null and void. And all Children that shall hereafter be born of such incestuous Marriage or Copulation, shall be for ever disabled to inherit by Descent, or by being generally named in any Deed or Will by Father or Mother. Degrees of Kindred forbidden Marriage.

And

Incestuous Marriages.

Penalty for
any within the
said Degrees
that shall
marry.

And be it further enacted by the Authority aforesaid, That every Man and Woman who shall marry, or carnally know each other, being within any of the Degrees before recited in this Act, and shall be convicted thereof before His Majesty's Justices of Assize and General Goal Delivery; such Man and Woman so convicted, shall be set upon the Gallows by the space of an Hour, with a Rope about their Neck, and the other End cast over the Gallows: And in the Way from thence to the common Goal, shall be severely whipped, not exceeding forty Stripes each. Also every Person so offending shall for ever after wear a Capital I of two Inches long, and proportionable bigness, cut out in Cloth of a contrary Colour to their Cloaths, and sewed upon their upper Garments on the outside of their Arm, or on their Back in open View. And if any Person or Persons having been convicted and sentenced for such Offence, shall at any Time be found without their Letter so worn, during their Abode in this Province, they shall by Warrant from a Justice of the Peace be forthwith apprehended and ordered to be publicly whipped not exceeding fifteen Stripes, and so from Time to Time *toties quoties*.

Penalty on
such whose
Marriage is
declared null,
to converse
or dwell to-
gether.

And be it further enacted by the Authority aforesaid, That if any Man or Woman whose Marriage is by this present Act declared null and void, shall be so hardy as to converse together as Man and Wife, or shall continue to dwell in the same House at any Time after the space of forty Days next after the Publication of this present Act, and be thereof convicted; or if any Man and Woman who shall hereafter be divorced, or their Marriage declared to be null and void, according to the Law of this Province, shall cohabit, or converse together as Man and Wife, and be thereof convicted, all and every such Persons shall suffer the Pains and Penalties mentioned in an Act made and passed by the Great and General Court or Assembly, at their Sessions begun and held the thirtieth Day of May, One Thousand six Hundred ninety four, Intituled *An Act against Adultery and Polygamie*; which in and by the said Act are set and imposed upon such as shall be taken in Adultery. And it shall be in the Power of the Justices of the Superiour Court of Judicature, to assign unto any Woman so seperated, such reasonable Part of the Estate of her late Husband, as in their Discretion the Circumstances of the Estate may admit; not exceeding one third Part thereof.

And for the better preventing of Clandestine Marriages:

4 W. & M.
ca. 10. and
References.

Justices and
Ministers not
to marry Per-
sons out of
their County
or Towns re-
spectively.

Names and
Intention of
Marriage to
be entred with
the Town
Clerk.

Penalty on
Justices or
Ministers
offending.

Be it enacted by the Authority aforesaid, In Addition to the Act Intituled, *An Act for the orderly Consummation of Marriages*: That no Person other than a Justice of the Peace, and that within his own County only; or ordained Minister, and that only in the Town where he is settled in the Work of the Ministry; shall or may presume to join any Persons together in Marriage: Nor shall any Justice or Minister, join any Persons in Marriage other than such, one or both of whom are Inhabitants or Residents in such County or Town respectively; nor without Certificate produced under the Hand of the Clerk of the several Towns where the Parties respectively dwell, that the Names and Intention of the said Parties have been entred with him fifteen Days before Hand; and that due Publication of such their Intention or Purpose has been made, in Manner as by Law is directed: Nor without evident Signification that the Parents of such Persons, or others whose immediate Care or Government they are under; are knowing of, and consenting to such Marriage; on Pain that every Justice, Minister, or other Person offending against this Act, shall for every such Offence forfeit and pay the Sum of *Fifty Pounds*; as a Fine for and towards the defraying of the publick Charges, arising within such County where the Offence is committed: To be sued for and recovered by the County Treasurer, in any of His Majesty's Courts of Record within the same; by Bill, Plaint or Information: And shall, and are hereby for ever after disabled to join Persons in Marriage; and be further liable to the Action and Suit of the Parent, Guardian, or others whose immediate Care and Government either of the Parties were under at the Time of such Marriage, that are aggrieved thereat and shall prosecute the same.

And

Affize of Shingles.

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And be it further enacted, That if at any Time the Banns of Matrimony betwixt any Persons shall be forbidden, the Publisher thereof shall forbear to proceed therein, until the Matter have been duly inquired into, and heard before two of the Justices of the same County; and that they certify under their Hands, either that the Cause was insufficient, or that it is removed.

Banns forbidden, not to be out-ask'd till the Matter be heard &c.

And all Marriages shall be Registered by the Town Clerk of the same Town where they are consummated: And every Justice or Minister as aforesaid, shall return a Note or Certificate unto the Clerk of the Town, of the Names of all Persons which they shall marry, and of the Time when, within three Months at furthest after Consummation of the same; and shall allow and pay out of his Fee unto the Clerk for entering the same *three Pence*: Any Law, Usage or Custom to the contrary notwithstanding.

Town Clerk to Register Marriages.

3 G. ca. 4.

And be it further enacted by the Authority aforesaid, That if any Man shall wear Womens Apparel; or if any Woman shall wear Mens Apparel, and be thereof duly convicted; they shall be corporally punished or fined, at the Discretion of the Quarter Sessions, not exceeding *five Pounds*, to the Use of the County where the Offence is committed, towards the defraying of the County Charges.

Penalty on Men and Women that shall wear contrary Apparel.

C H A P. VII.

An Act for Regulating the Affize of Shingles.

WHEREAS it has been accustomed, that Shingles exposed to Sale, are close pack'd up in Bundles, so that the Quality of them cannot be seen; and do frequently fall short of the due Affize and Dimensions, whereby great Injustice may be done:

Preamble.

For Remedy whereof:

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That all Shingles exposed to Sale, shall be made of good sound Timber, and of the following Dimensions: *That is to say*: Each Shingle to bear eighteen Inches or fifteen Inches in Length; and not under three and half Inches in Breadth; nor under half an Inch thick, and well shaved. All Shingles of eighteen Inches and fifteen Inches respectively, to be made up in distinct Bundles by themselves.

Affize of Shingles.

9 A. ca. 6.

And be it further enacted by the Authority aforesaid, That from and after the first Day of September next ensuing, no Person shall expose to Sale any such Shingles, which are not of the full Dimensions of Length, Breadth and Thickness aforesaid; on pain of forfeiting every Bundle, wherein any Shingles shall be found under any of the said Dimensions of Length, Breadth or Thickness. And if any Person to whom any Shingles are tendred to be sold, shall desire to have them viewed; upon his Application made to a Justice of Peace, such Justice is hereby impowred, to make out a Warrant for the appointing and authorizing some able House-Carpenter, to view and measure the same; and to administer an Oath unto him, to deal faithfully and impartially therein; and in the Presence of the Owner or Vender of such Shingles (if he see Cause to be there) to perform the said Service; and to make Seizure of all such Bundles of Shingles, in which there shall be any found under the full Dimensions above-mentioned, in any Particular thereof. And upon such Return made by the said Officer under his Hand, to the Justice who granted the Warrant, such Justice shall declare the said Shingles to be forfeited; and cause them to be delivered unto the Select-Men or Overseers of the Poor of the Town, where they are offered to Sale; to be employed to and for the Use of the Poor of such Town: The Charges of viewing, being first defrayed and answered for out of the same; but where there appears no Defects the Person at whose Desire the Survey is appointed, shall answer the whole Charge thereof.

All Shingles under due Affize, exposed to Sale, to be forfeited.

Justices of the Peace to appoint a Viewer

Defective Shingles forfeited, to be to the Use of the Poor.

C H A P. VIII.

An Act for the better Settlements of the Islands of *Martha's Vineyard*, and Islands adjacent.

Appeals from
Courts in
Dukes County,
to be to *Ply-*
mouthe.

Appeals from
Courts in
Nantucket to
be to *Boston*.

BE it enacted by the Lieutenant Governour, Council and Representatives, convened in General Court or Assembly, and by the Authority of the same, That the Islands of *Martha's Vineyard*, *Elisabeth Islands*, the Islands called *Nomans-Land*; and all the Dependencies formerly belonging to *Dukes County*, (the Island of *Nantucket* only excepted) shall be, remain and continue to be one County, to all Intents and Purposes; by the Name of *Dukes-County*: And all Appeals from any Judgment or Judgments given, or to be given in any of the Inferiour Courts of Pleas within the said County, shall henceforth be heard and tried at the Superiour Court of Judicature to be holden from Time to Time at *Plymouth*, within the Neighbouring County of *Plymouth*: Any Law, Usage or Custom to the contrary notwithstanding: the Jurors to serve at the said Superiour Courts of Judicature, to be from Time to Time chosen and summoned out of the several Towns within the said County of *Plymouth* and *Dukes-County* according to the Directions in the Law in such Case provided. The Island of *Nantucket* to remain and continue under the same Form of Government as is already there settled: And Appeals from the Judgments given or to be given in the Inferiour Court of Pleas within the said Island, to be heard and tried in the Superiour Court of Judicature to be held at *Boston* within the County of *Suffolk*, as is by Law provided.

C H A P. IX.

An Act in further Addition to the Act Intituled, *An Act for the Settlement and Support of Ministers.*

4 W. & M.
ca. 11, and
References.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when at any Time a Church shall make Choice of a Minister, and present their Choice unto the Inhabitants of the Town or Precinct in a publick Meeting duly warned and assembled for that Purpose, to have their Concurrence therein; and the Inhabitants so assembled, shall by a major Vote deny their Approbation of the Churches Choice; the Church may call in the Help of a Council consisting of the Elders and Messengers of three or five Neighbouring Churches; which Council are hereby impowred to hear, examine and consider the Exceptions and Allegations made against the Churches Election. And in Case the Council shall notwithstanding approve of the said Election, such Minister accepting of the Choice, and settling with them, shall be the Minister of the Town or Precinct, who shall be in all Respects supported and maintained, as by the said Act is provided; but if otherwise, the Church shall proceed to the Election of another Minister.

And it is further declared, That no Person by Reason of his voting in the Church, shall be precluded from voting as an Inhabitant of the Town: Any Law, Usage or Custom to the contrary notwithstanding.

Suppressing of Unlicensed Houses.

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Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, the twenty-ninth Day of *May*, 1695. And continued by several Adjournments until the twentieth of *November* following.

C H A P. X.

An Act for the better Discovery and more effectual Suppressing of Unlicensed Houses.

FORASMUCH as divers ill disposed and indigent Persons, the Pains and Penalties in the Laws already made not regarding, are so hardy as to presume to sell and retail strong Beer, Ale, Cyder, Perry, Wine, Rum, or other strong Liquors or mixt Drinks, and to keep common tipling Houses, therein harbouring and entertaining Apprentices, Indians, Negroes, and other idle dissolute Persons, tending to the Ruin and Impoverishment of Families, and to all Impiety and Debaucheries; and if detected and convicted of any such Offence, are unable to satisfy the Fine imposed by Law for the same; and cannot be punished by Imprisonment without Wrong to their Families:

Preamble.

See 4 W. & M. ca 7. and References.

For Remedy whereof, and the more effectual deterring and suppressing of such evil Practices:

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often as any Person being duly convicted of keeping a common tipling House, or selling strong Beer, Ale, Cyder, Perry, Wine, Rum, or other strong Liquors or mixt Drink by Retail, without Licence first orderly had and obtained for the same, shall be unable to answer and satisfy the Fine imposed by Law for such Transgression, together with the Charge of Prosecution; or that shall not pay such Fine and Charges (and likewise give Bond for the good Behaviour, if it be a second Conviction) within the space of twenty four Hours next after Sentence declared in that Respect; it shall and may be lawful to and for two Justices of the Peace, or the Court before whom the Conviction shall be, to order such Offender to be openly whip'd with so many Stripes as in their Discretion shall be thought fit, not less than ten, nor exceeding fifteen for one Offence; and to restrain the Offender in Prison, until the Fine and Charges as aforesaid are paid, or the Order for corporal Punishment be executed.

Persons unable to pay the Fine to be whip'd

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any Grand Jurors, Constables, Tything-Men, and the Officers employed in and about the Excise, *ex officio* to enter into the House and Dependencies thereof, of any such Person as aforesaid, suspected of selling strong Drink without Licence, having once been convicted thereof, and taking with them such Assistance as they shall think needful, to make Search for strong Drink, and finding any Quantity of any Kind of the Drinks herein before-mentioned, to seize and secure the same, so as it be within the space of one Year next after such Conviction, and to inform thereof at the next General Sessions of the Peace to be holden within the same County, or unto two Justices of the Peace (*Quorum Unus*) within the same: And if the Quantity of Drink so seized shall be judged by such Court or Justices to be more than for the necessary Use of the Family, and what their Condition may reasonably allow them to expend, or otherwise to have in their Custody; it shall and may be lawful to and for such Court or Justices to declare all such Drink to be forfeited; one Moiety thereof unto the Party that seized and informed of the same, and the other Moiety to the Select-men or Overseers of the Poor of the Town where it was seized, to the Use of the Poor there; and to order the Disposall thereof accordingly.

Officers Power to seize Drink found in unlicensed Houses.

I

Provided

Affidavits taken out of Court.

Appeal from
the Sentence
of two Justices

Provided nevertheless, That any Person aggrieved at the Sentence of any two Justices for either of the Offences before-mentioned, may appeal therefrom unto the next General Sessions of the Peace within the same County; provided such Appeal be claimed in due Time, and Security given in Manner as the Law in such Cases directs.

C H A P. XI.

An Act for taking of Affidavits out of Court.

Preamble.

FORASMUCH as it is often necessary, that *Witnesses* in civil Causes be sworn out of Court, when by Reason of their going to Sea, living more than thirty Miles distant from the Place where the Cause is to be tried, Age, Sickness, or other bodily Infirmary, they are rendered incapable of Travel, and appearing in Person at the Court: To the Intent therefore that all *Witnesses* may indifferently testify their certain Knowledge, and the whole Truth in the Cause they are to speak unto:

Adverse Party
to have Noti-
fication.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That for either of the Reasons before-mentioned, and not otherwise, every Justice of the Peace, or others lawfully commissioned and impowered thereto by two or more of the Justices of the Superiour or Inferiour Court respectively, may take Affidavits out of Court, so as a Notification with reasonable Time, be first made out and delivered to the adverse Party (if within twenty Miles of the Place) or left at the Place of his Dwelling or usual Abode, to be present at the Time of taking such Affidavit, if he think fit; and every such Witness shall be carefully examined and cautioned to testify the whole Truth; and being Sworn, the Justice shall attest the same, with the Day Month and Year of the Caption thereof; and that the adverse Party was present (if so) or that a Notification was sent him; and shall Seal up the Testimony, and deliver it to the Party (if desired) at whose Request it was taken: And no Person interested shall write or draw up the Testimony of any Witness in such Cause, nor any Attorney in his Clients Cause: And if it manifestly appear that any Testimony be written or drawn up by any interested, or the Attorney in the Cause, or be returned from any Justice of the Peace by other Hand than his own, into the Court where the same is to be used, unsealed, or the Seal having been broken up; all such Testimonies shall be rejected by the Court, and be utterly void, and of no Effect in Law.

No Person in-
terested or the
Attorney, to
write Affida-
vits.

Affidavits to
be returned
to the Court
sealed up.

Justices to
grant Sum-
mons for Wit-
nesses.

And be it further enacted by the Authority aforesaid, That every Justice of the Peace shall be, and hereby is impowered, upon Request to him made, to grant Summons for the Appearance of any Witness before him in any civil or criminal Cause, where such Witness is bound to Sea before the Time of Trial, and to take his Deposition in such Cause; the adverse Party being present, or Notification sent him as aforesaid.

Witnesses to
Bonds and
other Writ-
ings may be
Sworn with-
out Notifica-
tion.

Provided nevertheless, That Witnesses to Bonds, Specialties, Letters of Attorney, and other Instruments in Writing under the Hand of the Party executing the same, or to Accompts or Testimonies relating to Persons out of this Government, or to be sent beyond Sea, may be sworn without such Notification as aforesaid.

Affidavits in
*perpetuum rei
memoriam*, to
be sworn in
Court or be-
fore two
Justices.

And be it further enacted by the Authority aforesaid, That all Affidavits relating to the Possession of any Houses or Lands, or any other Matter, in *perpetuum rei memoriam*, shall be made and taken before some Court of Record, or two or more Justices of the Peace, *Quorum Unus*.

And it is further enacted, That all Persons forswearing themselves in any such Affidavits taken as aforesaid, shall incur the same Penalties, as if they had been taken in open Court.

Penalty for
Perjury.

An Act,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* the twenty-ninth Day of *May*, 1695. And continued by several Adjournments until the twenty-sixth Day of *February* following.

C H A P. I.

An Act directing the Province Treasurer to lay his Accompts before the General Assembly from Time to Time for their Approbation.

BE it declared and enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Accompts of the issuing and disposal of Monies and Sums of Money granted and raised, and that hereafter shall be granted and raised by the General Assembly, for the Support and Defence of this His Majesty's Province, and that hath or shall come into the publick Treasury, by any other Ways or Means whatsoever, shall be by the Treasurer laid before the Great and General Assembly, when by them required, for their Examination, Approbation and Allowance, from Time to Time as hath been accustomed. And all such Approbations and Allowances of the General Assembly heretofore, and that hereafter shall be passed, shall be to the Treasurer a full and final Discharge.

Accounts of the issuing & disposal of the publick Money, to be laid before the General Assembly.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun at *Boston* the twenty-seventh Day of *May*, 1696. And continued by several Adjournments unto the eighteenth of *November* following.

C H A P. II.

An Act for the equal Distribution of Insolvent Estates.

BE it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and it is enacted and ordained by the Authority of the same, That when the Estate of any Person deceased shall be Insolvent or insufficient to pay all just Debts which the Deceased owed; the same shall be set forth and distributed to and among all the Creditors in proportion to the Sums to them respectively owing, so far as the said Estate will extend saving that the Debts due to the Crown, the Sicknefs and necessary Funeral Charges of the Deceased are to be first paid. And the Executor or Administrator appointed to any such Insolvent Estate, before Payment to any be made (except as aforesaid) shall represent the Condition and Circumstances thereof unto the Judge for Probate of Wills, and granting of Administrations; and the said Judge shall nominate and appoint two or more fit and indifferent Persons to make a true and equal Apprizement of such Estate, and administer an Oath unto them for that Purpose; and shall also nominate and appoint two or more fit Persons to be Commissioners with full Power to receive and examine all Claims of the several Creditors, and how they are made out: And such Commissioners shall cause the Times and Places of their Meeting, to attend the Creditors, for the receiving and examining of their Claims, to be made known and published by posting up the same in some publick Places in the Shire Town of that County where such deceased Person last dwelt, and of the two next adjoining Counties.

Additional Act
12 W. ca. 8.

Manner of Distribution.

Apprifiers to be sworn.

Commissioners to receive the Claims.

Saving of
Dower.

And six, twelve, or eighteen Months Time (as the Circumstances of any Estate may require) shall be allowed by the Judge unto the Creditors, for bringing in their Claims, and proving their Debts: At the End of which limited Time, such Commissioners shall make their Report, and present a List of all the Claims unto the said Judge, who shall order them meet Recompence out of the Estate, for their Care and Labour in that Affair: And the Debts due to the Crown, Sickness, and necessary Funeral Charges, as is herein before provided, being first subducted, shall order the Residue and Remainder of the Estate to be paid and distributed to and among the other Creditors that shall have made out their Claims in due proportion to the Sums unto them respectively owing, according as the Estate will bear; saving unto the Widow, if any be, her Right of Dower according to Law, in the Houses and Lands of the Deceased; the Widow's Dower at the Expiration of her Term to be also distributed among the Creditors in a like Proportion.

Debts may be
contested at
common Law.

Provided, That notwithstanding the Report of any such Commissioners or Allowance thereof made, it shall and may be lawful to and for the Executor or Administrator, to contest the Proof of any Debt at the common Law.

Process suspended whilst
the Commission is depend-
ing.

And no Process in Law (except for Debts due to the Crown, Sickness and Funeral Charges) shall be allowed against the Executors or Administrator of any Insolvent Estate, so long as the same shall be depending as aforesaid.

Creditors
excluded that
bring not in
their Claims.

And whatever Creditor shall not make out his or her Claim with such Commissioners before the full Expiration of the limited Time, such Person shall be for ever after debarred of his or her Debt, unless he or she can find some further Estate of the Deceased, not before discovered and put into the Inventory.

Persons sus-
pected of
Concealment
or Imbezel-
ments to be
sworn.

And be it further enacted by the Authority aforesaid, That every Judge for Probate of Wills and granting Administrations within the respective Counties, be, and hereby is fully authorized and impowred to call before him, and to require and administer an Oath unto any Person or Persons probably suspected by any Executor or Administrator to have concealed, imbezel'd or conveyed away any of the Money, Goods or Chattels left by the Testator, or Intestate, for the discovery of the same. And in Case any such suspected Person was be- trusted by the Person deceased, attended upon, or was otherwise conversant with or near unto him in the Time of Sickness; or left in Possession of the Estate whereby to strengthen and make the Suspicion more violent, and shall refuse to clear and acquit him or her self upon Oath; it shall and may be law- ful for, and the Judge is hereby impowred to commit such Person so refusing to Swear, unto the Goal of the County, there to remain until he or she shall comply to discharge him or herself upon Oath as aforesaid, or be released by Consent of the Executor or Administrator.

Penalty for
refusing.

Appeal.

Saving unto any Person aggrieved at any Sentence, Order or Decree, made by the Judge of Probate, Liberty of an Appeal unto the Governour and Council: such Appellant giving Bond in a reasonable Sum with sufficient Security to prosecute his Appeal with Effect, and to abide and perform the Determination that shall be made thereupon.

C H A P. III.

An Act for making of Lands and Tenements liable to the Payment of Debts.

Preamble.

*W*HEREAS the Estates of Persons within this Province do chiefly consist of Houses and Lands, which give them Credit, some being remiss in paying of their just Debts, and others hapning to die before they have discharged the same:

Lands and
Tenements
liable to Ex-
ecution.

Be it therefore enacted and ordained by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all Lands or Tenements belonging to any Person in his own proper Right in Fee, shall stand charged with the Payment of all just Debts owing by such Person, as well as his personal Estate, and shall be liable

Murdering Bastard Children. High Treason.

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to be taken in Execution for Satisfaction of the same, where the Debtor or his Attorney shall not expose to View and tender to the Officer personal Estate sufficient to answer the Sum mentioned in the Execution, with the Charges.

And all Executions duly served upon any such Houses and Lands, being returned into the Clerk's Office of the Court out of which the same issued and there recorded, shall make a good Title to the Party for whom they shall be so taken, his Heirs and Assigns for ever. Also where the Goods and Chattels belonging to the Estate of any Person deceased, shall not be sufficient to answer the just Debts which the Deceased owed, or Legacies given; upon Representation thereof, and making the same to appear unto the Superiour Court of Judicature holden for or within the County where such deceased Person last dwelt; the said Court are hereby impowred to licence and authorize the Executor or Administrator of such Estate to make Sale of all or any Part of the Houses and Lands of the Deceased, so far as shall be necessary to satisfy the just Debts which the Deceased owed at the Time of his Death; and Legacies bequeathed in and by the last Will and Testament of the Deceased. And every Executor or Administrator being so licensed and authorized as aforesaid, shall and may by virtue of such Authority, make, sign and execute in due Form of Law, Deeds and Conveyances for such Houses and Lands as they shall so sell; which Instruments shall make a good Title to the Purchaser, his Heirs and Assigns for ever.

Execution duly served and Recorded to make a good Title.

Justices of the Superiour Court impowred to License the Sale of Lands, &c.

Provided nevertheless, That any Debt or Debts due to the Crown from any such Estate, shall be first secured and paid out of the same.

Debts to the Crown to be first paid.

And be it further enacted by the Authority aforesaid, That when any Person or Persons shall make Sale or other Alienation of any Lands or Tenements to him of Right belonging, with Intent to defeat and defraud his Creditors of their just Debts not *bonâ fide* for good and valuable Consideration truly paid: All such Sales and Alienations are to be deemed covinous and fraudulent, and shall be of no Effect to bar any Creditor from such Debt as is to him owing.

Fraudulent Deeds to be void.

C H A P. IV.

An Act to prevent the destroying and murdering of Bastard Children.

WHEREAS many lewd Women that have been delivered of Bastard Children to avoid their Shame, and to escape Punishment, do secretly bury or conceal the Death of their Children, and after, if the Child be found Dead, the said Women do alledge that the said Child was born dead; whereas it falleth out sometimes (although hardly it is to be proved) that the said Child or Children were murdered by the said Women their lewd Mothers, or by their Assent or Procurement:

Preamble:

Be it therefore enacted by the Lieutenant Governour, Council and Representatives, convened in General Assembly, and it is hereby enacted by the Authority of the same, That if any Woman be delivered of any Issue of her Body, Male or Female, which if it were born alive, should by Law be a Bastard; and that she endeavour privately, either by drowning, or secret burying thereof, or any other Way; either by her self, or the procuring of others so to conceal the Death thereof, that it may not come to Light, whether it were born alive or not, but be concealed. In every such Case, the Mother so offending, shall suffer Death, as in Case of Murder: except such Mother can make Proof by one Witness at the least, that the Child whose Death was by her so intended to be concealed, was born dead.

4W.&M.ca. 6.

C H A P. V.

An Act against High Treason.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Person or Persons shall compass or imagine the Death of Our Sovereign Lord the King, or of Our Lady his Queen, or of the Heir apparent to the

Compassing or imagining the Death of the King, &c.

Crown,

Levying War
against the
King.

Counterfeit-
ing the King's
Great Seal,
&c.

Trials to be
regulated ac-
cording to the
Law of Eng-
land, in Cases
of Treason,
&c.

Crown : Or if any Person shall levy War against Our Lord the King, or be adherent to the King's Enemies, giving them Aid and Comfort in the Realm, or elsewhere, and thereby be probably attainted of open Deed by his Peers, upon the Testimony of two lawful and credible Witnesses upon Oath, brought before the Offender Face to Face, at the Time of his Arraignment, or voluntary Confession of the Party arraigned. Or if any Person or Persons shall counterfeit the King's Great Seal or Privy Seal, or the Seal of this Province, and thereof be duly convicted as aforesaid : Then every such Person and Persons so as aforesaid offending, shall be deemed, declared and adjudged to be Traitors, and shall suffer Pains of Death, and also loose and forfeit as in Cases of High Treason.

And be it further enacted by the Authority aforesaid, That the Trial of all and every Person and Persons whatsoever accused, indicted and prosecuted for high Treason and misprision of such Treason, shall be regulated according to the Act of Parliament made in the seventh Year of his present Majesty's Reign, Intituled *An Act for Regulating of Trials in Cases of Treason and misprision of Treason* : And the Party so accused, indicted and prosecuted, to be allowed the Benefits and Privileges in and by the said Act granted and declared.

C H A P. VI.

An Act in Addition to the Act for preventing of common Nuisances arising by Slaughter Houses, Still-Houses, &c.

Preamble.
4 W. & M.
ca. 9. and
References.

FOR the better preventing of Desolation by Fire, that may happen by drawing of Spirits, or melting down of Tallow :

Court of Quar-
ter-Sessions
impowered to
cause Stills for
drawing of
Spirits, or Fur-
naces for melt-
ing of Tallow
set up without
Order, to be
taken down.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Distiller or Tallow-Chandler shall presume to set up any Still or Stills for the drawing of Spirits, Copper or Furnace for the melting of Tallow, or make Use of any Still, Copper or Furnace for either of the said Ends in any House or Place, other than such as are or from Time to Time shall be assigned for that Purpose by the Select-men of the Town, with two or more Justices of the Peace, contrary to the Intent of the said Act ; every Person and Persons so offending, and being thereof duly convicted before his Majesty's Justices in the Court of General Sessions of the Peace within the same County, shall not only incur the Penalty or Fine in the said Act mentioned ; but shall also enter into Recognizance to take down such Stills, Coppers or Furnaces ; and in Default of entering into Recognizance as aforesaid, to be committed to Prison until he do cause the same to be taken down ; or else such Stills, Coppers or Furnaces shall be taken down by Order of the said Court ; and the Charge thereof to be levied by Distress and Sale of such Offenders Goods, returning the Overplus, if any be.

C H A P. VI.

An Act in Addition to the Act for Regulating Ferries.

Preamble.

6 W. & M. ca. 6.

WHEREAS there is a constant Recourse of Travellers and others for Passage over the Ferries betwixt Boston and Charlestown, and betwixt Boston and Winnesmit : Therefore for Prevention of the great Inconvenience and Damage that doth or may happen to Persons by being hindered and delayed at the said Ferries, for want of speedy Transportation over the same :

Stated Hours
for the Ferry
Boats passing
at Winnesmit
Ferry.
4 G. ca. 4.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Person or Persons that are, or from Time to Time shall be employed for keeping Winnesmit Ferry, shall constantly maintain a good Boat
or

Town Rates.

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or Boats, in good Repair, suitable for the said Ferry on each Side of the Water; and that such Boats whether there be any Passengers in the same or not, shall put off from their respective Shores to go to the other Side, upon each Day in the Week (the Lord's Day excepted) at the Hours of five, seven, nine and eleven a Clock before Noon; and at one, three, five and seven of the Clock after Noon, throughout the whole Year, so as it be within Day-Light; on Pain that every such Ferry-man or Ferry-men being complained of and convicted before any one or more of his Majesty's Justices of the Peace of Neglect of his Duty, in not crossing the said Ferry at the several Times and Hours before-mentioned, shall forfeit and pay the Sum of *twenty Shillings*; one Half to the Informer or Complainant, and the other Half to the Use of the Poor of the Town of *Boston*. And such Justice or Justices, may restrain the Offender or Offenders, until he or they shall pay the said Sum.

Penalty for
Ferry-Mens
Neglect.

And be it further enacted, That all Posts and Expresses for his Majesty's Service; and other Persons having extraordinary Business; as in Cases concerning Life and Death shall be speedily transported over the said Ferry, at any Time or Season, without Delay; on the Penalty aforesaid: Any Thing herein before contained to the contrary notwithstanding.

Posts &c. to
be speedily
transported.

Provided nevertheless, That such Ferry man or Ferry-men shall not be obliged to put off from their respective Shores and pass the said Ferry, at any of the Times or Hours before stated, if it manifestly appear to be hazardous for them so to do, by Reason of any Storm or Tempest; or that in the Winter the Ice do hinder the passing of any Boat across the said Ferry.

Saving for
stormy Sea-
sons.

And be it further enacted by the Authority aforesaid, That when and so often as it shall happen, that the Boats employed for the Ferry between *Boston* and *Charlestown*, shall be on the same Shore, upon the Landing of the second Boat, the first shall forthwith put off and pass over to the other Side, Passengers or no Passengers; on the like Penalty herein before expressed, and to be disposed of as aforesaid; to the Use of the Poor of *Boston* or *Charlestown* respectively.

At *Charlestown*
Ferry, two
Boats not to
lie on the
same Shore.
9 A. ca. 1.
4 G. ca. 4.
11 G. ca. 4.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, the twenty-sixth Day of *May*, 1697.

C H A P. I.

An Act relating to Town Rates or Assessments.

WHEREAS divers Constables and Collectors of Town Rates or Assessments, are defective and negligent of their Duty in not timely paying of the same, as by the Warrants or Estreats to them committed they are required:

Preamble:

For Redress whereof:

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Constables or Collectors within the several Towns in this Province, who have had, or hereafter shall have, any Rates or Assessments for the defraying of Town Charges, orderly made and committed unto them to collect, the Accounts and Payment whereof are not issued; or that at any Time or Times hereafter shall not pay in and issue their Accounts thereof with the Treasurer of such Town, or other Person appointed by the Select-men to be a Receiver of the same, by the Time prefix'd in the Warrants to them respectively given for the collecting and paying in thereof, or within the space of one Month next after the Expiration thereof; every such defective Constable or Collector, shall be liable to the Action or Suit of the Treasurer or Receiver of such Town: And such

4 W. & M. ca. 13.
13 W. ca. 18.
9 A. ca. 5.
Constables or
Collectors of
Town Rates
not issuing
their Accounts
thereof by the
Time prefix'd
in their War-
rants to be
liable to Suit.
11 G. ca. 2.
4 G. 2. ca. 1.
19 G. 2. ca. 1.
30 G. 2. ca. 1.

such Treasurer or Receiver, is hereby impowered and authorized to sue for and recover all such Rates and Assessments, or any Arrears thereof, of and from the Constables or Collectors respectively to whom the same were committed, and that have or shall neglect their Duty in that Regard; by Action, Bill, Plaint or Information, in any of his Majesty's Courts of Record: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act impowering Justices of the Peace to decide Differences not exceeding *Forty Shillings*.

Justices of the Peace to grant Summons, Capias or Attachment, for Matters triable before them.
27 G. 2 ca. 1.

Whereas it enacted and ordained by the Lieutenant Governor, Council and Representatives, convened in General Assembly, and it is hereby enacted and ordained by the Authority of the same, That all Manner of Debts, Trespasses and other Matters, not exceeding the Value of *Forty Shillings* (wherein the Title of Land is not concerned) shall and may be heard, tried, adjudged and determined, by any of his Majesty's Justices of the Peace within this Province, in their respective Precincts; who are hereby impowered, upon Complaint made of any such Debt, Trespass or other Matter, as aforesaid, to grant Summons, Capias or Attachment, against the Party complained of, directed to the Sheriff or Marshal of the County; or either of their Deputies, or Constables of the Town wherein such Party lives: For which Summons, Capias or Attachment, the Justice shall be paid *one Shilling*; and the Officer for serving the same, *one Shilling*, and no more. And in Case of Non-appearance upon Summons duly served, being so returned by the Officer; such Justice may issue out a Warrant of Contempt directed to the Sheriff, or Marshal or other Officer as aforesaid, to bring the Contemner before him, as well to answer the said Contempt as the Plaintiff's Action, and may (if he see Cause) fine such Contemner, not exceeding *Ten Shillings*, to be accounted for to the Treasurer of the County towards defraying of County Charges: And after Judgment given in any Case, may grant an Execution or Warrant of Distress directed to the Sheriff or Marshal or other Officer as aforesaid, to levy the said Fine, Debt or Damage, with Charges, upon the Defendants Goods or Chattels. And such Officer by Virtue thereof shall expose the same to Sale, returning the Overplus (if any be) to the Defendant; and for want of such Distress to take the Body of the Defendant, and him to carry and convey to the common Goal of the County or Precinct, there to remain until he hath satisfied the said Fine, Debt or Damage, with Charges. And in Case such Complainant be Non-suited, or Judgment pass against him, then the said Justice is hereby impowered to assess to the Defendant reasonable Costs against such Complainant, to be levied and recovered in Manner and Form above expressed.

Fee for a Writ and Serving.

Fine for Contempt in not appearing upon Summons.

Writs to be served seven Days before Trial.

Party aggrieved to appeal to the Inferiour Court.

Party appealing to bring the whole Case.

Reasons of Appeal to be given in seven Days before the Trial.

Provided always, That all Summons, Capias or Attachment before such Justice of the Peace, shall be served and executed at least seven Days before the Time of Trial or Hearing.

Provided also, That the Party aggrieved shall have Liberty to appeal to the next Inferiour Court of Common Pleas to be holden for the same County, he entering into Recognizance with one sufficient Surety in the Value of the Debt or Damage sued for, and sufficient to answer all Costs to prosecute the said Appeal there with Effect; and to abide the Order of the said Court, where such Case shall be tried, and receive a final Issue and Determination.

And the Party appealing shall bring the Copies of the whole Case to the Court appealed to, where each Party shall be allowed the Benefit of any further Plea or Evidence; and if upon such new Plea or Evidence the Judgment happen to be reversed, the Appellant shall have no Costs granted for the first Trial, and such Appellant shall also give in the Reasons of his Appeal unto the Justice appealed from in writing seven Days inclusively before the sitting of the Court appealed to. And all Justices are hereby required to keep fair Records of all their Proceedings from Time to Time.

And

Murder. Ravishment or Rape. Buggery.

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And be it further enacted by the Authority aforesaid, That the Clerk of any Town within this Province may and hereby is impowred to grant Replevins, Clerks of Towns to grant Replevin, &c. Summons or Attachment for any Matter or Cause triable before any Justice of the Peace, and Summons for Witnesses; and to direct the same to the Constables of such Town, or to the Party to be summoned for Witnesses respectively; and the Constable or Constables are hereby required to execute such Replevins, Summons or Attachments accordingly, and to make due Return thereof.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* the twenty-sixth Day of *May*, 1697. And continued by several Prorogations until the thirteenth of *October* following.

C H A P. III.**An Act against Murder.**

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, 8 W. ca. 4. That whosoever shall commit wilful Murder upon premeditated Malice or Hatred; and be thereof convicted; the Person or Persons so offending shall be put to Death.

C H A P. IV.**An Act against Ravishment or Rape.**

BE it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Man shall ravish any Woman, committing carnal Copulation with her by Force against her Will: Or if any Man shall unlawfully and carnally know and abuse any Woman-Child under the Age of ten Years; every Person and Persons offending in either of the Cases before-mentioned, being thereof convicted, shall be accounted Felons, and shall be adjudged to suffer the Pains of Death, as in Cases of Felony.

C H A P. V.**An Act for the Punishment of Buggery.**

FOR avoiding of the detestable and abominable Sin of Buggery with Man-kind or Beast, which is contrary to the very Light of Nature: Preamble.

Be it enacted and declared by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, it is enacted, That the same Offence be judged Felony, and such Order and Form of Process therein to be used against the Offenders as in Cases of Felony: And that every Man being duly convicted of lying with Mankind as he lieth with a Woman: And every Man or Woman that shall have carnal Copulation with any Beast or brut Creature; the Offender and Offenders in either of the Cases before mentioned, shall suffer the Pains of Death; and the Beast shall be slain and burned.

C H A P. VI.

An Act against Atheism and Blasphemy.

BE it declared and enacted by the Lieutenant Governour, Council and Representatives, convened in General Court or Assembly, and it is enacted by the Authority of the same, That if any Person shall presume wilfully to blaspheme the holy Name of God; Father, Son, or Holy Ghost; either by denying, cursing or reproaching the true God; his Creation or Government of the World: or by denying, cursing, or reproaching the holy Word of God; that is, the canonical Scriptures contained in the Books of the Old and New Testament; namely *GENESIS, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Esther, Job, Psalms, Proverbs, Ecclesiastes, The Song of Solomon, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zechariah, Malachi: MATTHEW, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Philippians, Colossians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelation*: Every one so offending shall be punished by Imprisonment, not exceeding six Months, and until they find Sureties for the good Behaviour; by sitting in the Pillory; by Whipping; boaring thorow the Tongue with a red hot Iron; or sitting upon the Gallows with a Rope about their Neck; at the Discretion of the Court of Assize, and General Goal Delivery, before which the Trial shall be; according to the Circumstances, which may aggravate or alleviate the Offence.

Provided, That not more than two of the fore-mentioned Punishments shall be inflicted for one and the same Fact.

C H A P. VII.

An Act for Registring of Deeds and Conveyances.

Preamble.

FOR the Prevention of Clandestine and uncertain Sales of Houses and Lands: And to the Intent it may be the better known what Right, Title or Interest Persons have in or to such Estates as they shall offer to Sale:

Deeds executed by Signing Sealing Acknowledgment & Record, to be valid.

8 W. ca. 3. No Bargain, Sale, &c. made three Months next after this Act to be good against any, but the Granter, without being Acknowledged and Recorded.

Proof of a Deed by Witnesses, in case, to be equivalent to Acknowledgment.

Be it enacted and declared by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That henceforth all Deeds or Conveyances of any Houses or Lands within this Province, signed and sealed by the Party or Parties granting the same, having good and lawful Right or Authority thereto, and acknowledged by such Granter or Granters before a Justice of the Peace, and recorded at Length in the Registry of the County where such Houses or Lands do lie; shall be valid to pass the same, without any other Act or Ceremony in the Law whatsoever.

And that from and after three Months next after Publication of this Act, no Bargain, Sale, Mortgage or other Conveyance of Houses or Lands made and executed within this Province, shall be good and effectual in Law to hold such Houses or Lands against any other Person or Persons, but the Granter or Granters, and their Heirs only; unless the Deed or Deeds thereof be acknowledged and recorded in Manner as is before expressed.

Provided nevertheless, That when and so often as it shall happen any Granter to live in Parts beyond Sea, or to be removed out of this Province, or to be dead before any Deed or Conveyance by him or her made, be acknowledged as aforesaid; in every such Case, the Proof of such Deed or Conveyance made by the Oaths of two of the Witnesses thereto subscribed, before any Court of Record within this Province, shall be equivalent to the Parties own Acknowledgement thereof.

And

Registry of Deeds.

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And be it further enacted by the Authority aforesaid, That if any Granter or Vender of any Houses or Lands shall refuse to acknowledge as is aforesaid, any Grant, Bargain, Sale, or Mortgage by him or her signed and sealed, being thereunto required by the Grantee or Vendee, his, her, or their Heirs or Assigns; it shall be lawful for any Justice of the Peace within the County where such Granter or Vender lives, upon Complaint made, to send for the Party so refusing; and if he or she persist in such Refusal, to commit him or her to Prison without Bail or Mainprize, until such Party shall acknowledge the same: It being first made appear and proved to be the Act and Deed of the same Party by the Oath of one or more of the Witnesses thereto subscribed; and such Grantee or Vendee filing a Copy of his Deed so proved in the Register's Office, shall thereby secure his Title in the mean Time, and the same shall be accounted sufficient Caution to every other Person and Persons against purchasing the Estate in such Deed mentioned to be granted.

Penalty for
Persons refus-
ing to Ac-
knowledge
their Deeds.

Provided, That nothing in this Act shall be construed, deemed or extended to bar any Widow of any Vender or Mortgager of Lands or Tenements, from her Dower or Right in or to such Lands or Tenements, who did not legally join with her Husband in such Sale or Mortgage, or otherwise lawfully bar or exclude her self from such her Dower or Right.

Saving for
Dower.

And it is further enacted by the Authority aforesaid, That any Mortgagee of any Lands or Tenements, his or her Heirs, Executors or Administrators having received full Satisfaction and Payment of all such Sum and Sums of Money as are really due to him by such Mortgage; shall at the Request of the Mortgager, his Heirs, Executors or Administrators acknowledge and cause such Satisfaction and Payment to be entred in the Margin of the Record of such Mortgage in the Register's Office, and shall sign the same, which shall for ever thereafter discharge, defeat and release such Mortgage, and perpetually bar all Actions to be brought thereupon in any Court of Record. And if such Mortgagee, his or her Heirs, Executors or Administrators shall not within ten Days next after Request in that Behalf made, and Tender of his, her or their reasonable Charges; repair to the Register's Office, and there make and sign such Acknowledgement as aforesaid, or otherwise sign and seal a Discharge of the said Mortgage, and Release and Quit-Claim to the Estate therein mentioned to be granted, and acknowledge the same before a Justice of Peace, he, she, or they so refusing, shall be liable to make good all Damages for want of such Discharge or Release: to be recovered by Action or Suit in any Court of Record. And in Case Judgment pass against the Party so sued, he, she or they so cast, shall pay unto the adverse Party treble Costs arising upon such Suit.

How Mortga-
ges shall be
discharged.

And be it further enacted and declared by the Authority aforesaid, That the Clerk of the Inferiour Court of Pleas in each respective County, shall also be the Register of Deeds and Conveyances, and shall fairly enter and record at Length all Deeds, Conveyances and Mortgages of any Lands, Tenements, Rent and other Hereditaments, lying and being within the same County, made, executed, acknowledged or proved in Manner as is aforesaid, which shall be brought to him to Record; and shall on Receipt thereof into the Office, note thereupon the Day, Month and Year when he received the same; and the Record shall bear the same Date. And every such Register before he execute the said Office, shall be Sworn before one or more of the Justices of such Court, well, truly and faithfully to execute the same. And it shall and may be lawful to and for every Register aforesaid, to ask and receive for entring and recording any Deed, Conveyance or Mortgage, *twelve Pence* for the first Page, and *eight Pence* a Page for so many Pages more as it shall contain, and no more; accounting after the Rate of twenty-eight Lines, of eight Words in a Line to each Page, and proportionably for so much more as shall be under a Page, and *six Pence* for his Attestation on the Original, of the Time, Book and Folio where it is recorded: and for Discharge of a Mortgage as aforesaid, *one Shilling*, and no more.

1 G. ca. 4.
7 G. ca. 5.
12 G. ca. 3.
Clerk of the
Inferiour
Court to be
Register of
Deeds.

to be sworn.

Registers Fees;

And be it further enacted and declared by the Authority aforesaid, That all Deeds of Bargain, Sale or Mortgage heretofore made and executed, according to former Laws and Usage, shall be valid and effectual.

Deeds execu-
ted according
to former
Laws & Usage
valid.

Limitation of Possessions.

C H A P. VIII.

An Act of Limitation for Quieting of Possessions.

Preamble.

*W*HEREAS a good and beneficial Act was made by the late Governour and Company of the Colony of the Massachusetts-Bay, in the Year of Our Lord God, One Thousand six Hundred fifty seven, in the Words following : That is to say, ' That any Person or Persons that hath ' either himself or by his Grantees or Assigns before the Law made for Direction ' about Inheritances, bearing Date *October* the nineteenth, One Thousand six ' Hundred fifty and two, possessed and occupied as his or their own proper Right ' in Fee-simple, any Houses or Lands within this Jurisdiction, and shall so continue, whether in their own Persons, their Heirs or Assigns, or by any other ' Person or Persons from, by or under them, without Disturbance, Lett, Suit, ' or Denial legally made by having the Claim of any Person thereto entred with ' the Recorder of the County where such Houses or Lands do lie, with the ' Names of the Persons so claiming, and the Quantity, Bounds of the Lands ' or Houses claimed, and such Claim prosecuted to Effect within the Term of ' five Years next after the twentieth of *May* One Thousand six Hundred and ' fifty seven : Every such Proprietor, their Heirs and Assigns shall for ever ' after enjoy the same without any lawful Lett, Suit, Disturbance or Denial by ' any after Claim of any Person or Persons whatsoever ; any Law or Custom to ' the contrary notwithstanding.' Which afore-recited Act having by Experience been found to be of great Benefit and Service to his Majesty's Subjects within the said Colony, and preventing many Contests and Law-Suits which otherwise would have risen by Reason of a Neglect in many Persons to observe a legal Course and Method for the passing and Confirmation of Sales and Alienations.

And whereas sundry Persons having a just and equitable Right and Title unto Estates in Housing or Lands, either acquired by Purchase, or otherwise accruing unto or settled upon them since the passing of the afore-recited Act ; may want formal Conveyances and Assurances in the Law for the same ; or the Deeds, Instruments, or other Writings concerning such Estates may be defective, or imperfectly made and executed, whereby such Persons may be in Danger of being deprived and evicted out of their honest and just Rights and Possessions :

For Prevention whereof, and for the further Quieting of Possessions, and Settling of Titles :

Quiet Possession from the first of *October* 1692, until the first of *October* 1704. to give a Right

Be it enacted and declared by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Person and Persons who were possessed in his and their own proper Right of any Houses or Lands within this Province upon the first Day of *October*, in the Year of our Lord God, One Thousand six Hundred ninety two, and all others deriving from, by or under him or them, continuing the Possession of such Houses or Lands until the first Day of *October*, which will be in the Year of our Lord God, One Thousand seven Hundred and four, without Molestation or Disturbance by Claim made thereto, and Action brought and prosecuted for the same with Effect ; shall by Virtue of such Possession, have hold and enjoy such Houses or Lands unto him or them, his and their Heirs and Assigns for ever in Fee. And all Actions and Procees to be thereafter brought for the same, are hereby excluded and for ever debarred.

Saving for the King's Right.

Provided always, That there shall be a Saving of his Majesty's Rights, and all publick Lands belonging to the Province, not orderly disposed of.

Other Savings.

Provided also, That this Act shall not be understood to bar the Title of any Infant, Feme Covert, or Person non compos mentis, Imprisoned, or in Captivity ; who shall be allowed the Term of seven Years next after such Imperfection removed to pursue their Claim or Challenge to any Houses or Lands, wherein they have Interest or Title : And the like Time of seven Years shall be allowed to Persons having an Estate in Reversion in any Houses or Lands from the Time such Reversion falls, to recover their Right ; and Persons beyond Sea shall be allowed the Term of ten Years from the Publication of this Act to pursue their Claim or Challenge to any Houses or Lands as aforesaid.

And

Incroachments on High Ways, &c.

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And forasmuch as divers Towns and Settlements in the Eastern Parts of this Province have been deserted and broken up by Reason of the Rebellion and War made by the Indians; and sundry Persons in other the Frontier Towns, particularly enumerated in an Act of the General Assembly, have by Means thereof been driven from their Habitations and Improvements :

Preamble.

We it therefore further provided and declared by the Authority aforesaid, That the Limitation of Time for the Continuance of Possession by this Act prefixed, shall not extend or be understood to extend unto any Houses or Lands lying to the Eastward of Piscataqua River, or in other the Frontiers: but the same Time shall be, and hereby is enlarged and lengthened out for the space of five Years next after the ending of the War with the *Indians*; during which space all Persons may pursue their Right and Claim to any Houses and Lands lying in those Parts and Places and every of them. And that no Person or Persons pretending Right or Title in or to any Lands lying within this Province purchased of any *Indian* or *Indians*, without orderly Allowance and Confirmation thereof had, according to former Laws and Usage of the several late Colonies of *Massachusetts* and *New-Plymouth*, and *Province of Maine* respectively; shall have or receive any Benefit by this Act with Reference to such Lands.

Five Years Time allowed from & after the ending of the War with the *Indians*, to lay claim to Lands lying to the Eastward of Piscataqua River, & in other the Frontiers.

1 G. ca. 6.

Lands purchased of *Indians* without orderly Allowance &c. are not confirmed by this Act.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, the twenty-fifth Day of *May*, 1698.

C H A P. I.

An Act to prevent Incroachments upon High Ways, Streets, &c.

FORASMUCH as divers Incumbrances and Incroachments have been made in and upon the common Roads, High Ways and Streets heretofore laid out in several Towns within this Province :

Preamble.

For Redress whereof :

We it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That henceforth no Edifice, Building or Fence whatsoever, shall be raised, erected, built, or set up in, upon, or over any of the said Roads, High Ways, Streets, Lanes or Alleys, in any Town within this Province, or any Part of any of them, whereby to straiten the Passage, or any Ways lessen the full Breadth of any such Roads, High Ways, Streets, Lanes or Alleys. And if any Edifice, Building or Fence whatsoever shall be raised, erected, built or set up, upon, in or over any such Road, High Way, Street or Alley, contrary hereunto; every such Edifice, Building or Fence shall be deemed and held to be a common Nuisance : And the Court of General Sessions of the Peace for the County in which such Town doth lie, upon Complaint, and making out the same before them, are hereby impowred to Order and Cause such Edifice, Building or Fence to be taken down, demolished and removed, and also to cause to be removed all such Incroachments, or Incumbrances as heretofore have been made, upon, in or over any common Road, High Way or Street as aforesaid; and the Charge thereof to be answered and paid by disposing of so much of the Materials, as shall be necessary to satisfy the same.

5 W. & M. ca. 8.
7 & 8 G. 2. ca. 3.

Provided nevertheless, That this Act shall not be intended or construed to intend the prohibiting of the setting up of any Conduit, Watch-House, Cage or Stocks, for publick Use, in or upon any High Way or Street within any Town.

C H A P. II.

An Act for Regulating of Tanners, Curriers, and Cordwainers.

Preamble.

FOR the better preventing of Deceits and Abuses by Tanners, Curriers, and Dressers, or Workers up of Leather :

7W.&M.ca.9.

1 A. ca. 1.

No Butcher,
Currier or
Shoe maker,
to be a Tan-
ner.

No Tanner
to use the
Trade of
Butcher, Cur-
rier or Shoe-
maker.

No Tanner to
offer or put to
Sale any Lea-
ther insuffi-
ciently tanned.

No unkind
Heats to be
used in Tan-
ning.

No Leather
to be curried
that is not
sealed.

Penalty on
Curriers for
marring or
hurting any
Hide by evil
workmanship.

Penalty on
Shoe-makers
for working
up insufficient
Leather.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person or Persons whatsoever using or occupying the Feat or Mystery of a Butcher, Currier or Shoe-maker, by himself or any other, shall use or exercise the Feat or Mystery of a Tanner ; on Pain of the Forfeiture of *six Shillings and eight Pence* for every Hide or Skin by him or them so tanned, whilst he or they shall use or occupy any of the Mysteries aforesaid. Nor shall any Tanner during his using the said Trade of Tanning by himself or any other, use or occupy the Feat or Mystery either of Butcher, Currier or Shoe-maker ; upon Pain of the like Forfeiture as aforesaid. And no Butcher whatsoever by himself or any other Person, shall gash or cut any Hide of Ox, Bull, Steer or Cow, in fleaing thereof, or otherwise, whereby the same shall be impaired or damaged ; on Pain of forfeiting *twelve Pence* for every gash or cut in any such Hide or Skin.

And be it further enacted by the Authority aforesaid, That no Person or Persons whatsoever using, or which shall use the Mystery or Faculty of Tanning, shall at any Time or Times hereafter, offer to put to Sale any Kind of Leather which shall be insufficiently tanned, or which have been over-limed, or burnt in the Limes ; or which shall not have been after the Tanning thereof well and thoroughly dried ; or that shall not be sealed as in and by this Act is hereafter directed ; upon Pain of forfeiting the whole Hide, half Hide or other Piece of such Leather, so offered or put to Sale. And no Person or Persons whatsoever using, or that shall hereafter use the Mystery or Faculty of Tanning, shall set any of his or their Fats in Tan-Hills or other Places where the Woozes or Leather put to tann in the same, shall or may take any unkind Heats, nor shall put any Leather into any hot or warm Woozes whatsoever, on Pain of forfeiting *Twenty Pounds* for every such Offence.

And be it further enacted by the Authority aforesaid, That no Person or Persons whatsoever, using or occupying, or that shall hereafter use or occupy the Mystery or Faculty of Currying, shall or may curry any Kind of Leather, except it be sealed, as is herein after provided ; nor shall curry any Hide being not thoroughly dried after his wet Season, in which wet Season he shall not use any stale Urine, or any other deceitful or subtle Mixture, Thing, Way or Means to corrupt or hurt the same ; nor shall curry any Leather meet for outer Sole Leather, with any other than good hard Tallow, nor with any less of that than the Leather will receive ; nor shall curry any Kind of Leather meet for upper Leather and inward Soles, but with good and sufficient Stuff, being fresh and not Salt, and thoroughly Liquored till it will receive no more ; nor shall burn or scald any Hide or Leather in the currying, but shall work the same sufficiently in all Points and Respects : on Pain of forfeiting for every such Offence or Act done contrary to the true Intent and Meaning hereof, every such Hide marred or hurt by his evil Workmanship or handling.

And be it further enacted by the Authority aforesaid, That no Person or Persons using or that shall hereafter use or occupy the Mystery or Faculty of a Shoe-maker or Cordwainer, shall work up into Shoes, Boots or other Wares, any Leather that is not tanned and curried in Manner as aforesaid ; nor shall use any Leather made of Horses Hide, for the inner Soles of any such Shoes or Boots ; on Pain of forfeiting all such Shoes, Boots, or other Wares made or wrought up of such insufficient Leather.

And for the more effectual Execution of this Act :

Be it enacted by the Authority aforesaid, That all Leather that is or shall hereafter be tanned or curried, shall before the same pass out of the Tanners or Curriers

Tanners, Curriers, Cordwainers.

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Curriers Yard, House or Place respectively where it was wrought; be viewed by the sworn Searchers and Sealers of Leather by Law directed to be annually chosen in such Towns where there shall be Need, who shall have two several Marks or Seals, to be prepared by each Town for that Purpose, with one of which they shall Seal all such Leather as they shall find well and sufficiently tanned in all Respects as aforesaid; and with the other, all such Leather as they shall find well and sufficiently curried as is before mentioned, and no other. And the said Searchers and Sealers shall, and hereby are authorized and impowered *ex officio*, to make Search and View in any House, Shop, Warehouse or other Place within the Limits of their respective Precincts where they conceive any Leather to be, whether wrought into Shoes, Boots, or other Wares, or not, as oft as they shall think meet, or as there shall be Need. And if the said Searchers and Sealers, or any of them, shall find any Leather sold or offered to be sold, brought or offered to be Searched and Sealed, which shall be tanned, curried, handled or used contrary to the true Intent and Meaning of this Act: or shall find any Leather in whole Sides out of the Possession of a Tanner, not being sealed with the Mark or Seal to be used for Leather only tanned; or out of the Possession of a Currier, not being sealed with the Mark or Seal to be used for Leather when curried: In every such Case it shall and may be lawful for the said Searchers and Sealers, or any of them, to seize all such insufficient or unsealed Leather, whether it be wrought up into Wares, or not. And if the Owner or Claimer thereof shall not submit to the Judgment of the Officer or Officers that seized the same, such Officer or Officers shall retain such Leather in his or their Custody, until Trial thereof be had as is hereafter directed, and Judgment thereon given. And in such Case, the said Officer or Officers shall within three Days next after such Seizure inform some Justice of the Peace thereof, who shall thereupon appoint four or six Men, honest and skilful in Leather, to view the same in Presence of the Owner or Claimer, or without him (if having Notice) he does not appear; and to report unto him upon their Oaths the Defects which they find in the said Leather: Which Report such Justice shall return unto the Court or Justice respectively before whom the Trial of the said Leather shall be. But in Case the said Viewers shall Report that they do not find such Leather or Wares so seized, in any Respect defective according to the Intent of this Act; the Justice that appointed such Viewers shall cause the same to be forthwith discharged from the Seizure made by such Officer or Officers.

All Leather to be sealed before it pass out of the Possession of Tanners or Curriers.

Sealers *ex officio* to search and view Leather.

To seize all insufficient or unsealed Leather.

Tryers to be appointed.

And be it further enacted by the Authority aforesaid, That no Person or Persons whatsoever shall or may withstand or resist the Searchers and Sealers in the due Execution of their Office, nor in the seizing of any insufficient Leather or Wares; on pain of forfeiting the Sum of *five Pounds* for every such Offence. And the Fee for searching and sealing of Leather shall be *one Penny* per Hide for any Parcel less than five; and for all other Parcels after the Rate of *six Pence* per Dickar; which Fee the Tanner and Currier respectively shall pay upon sealing the said Leather from Time to Time; and shall also pay *three Pence* per Mile for every Mile any Sealer or Searcher shall travel above one, for which he is not to be allowed any thing.

Penalty for resisting the Searchers.

Fee for Sealing.

And no Sealer or Searcher of Leather shall refuse within convenient Time to do his Office; or shall allow any Leather or Wares which are not sufficient; on pain of forfeiting *forty Shillings*; nor shall take any Bribe or exact more than his due Fees; on pain of forfeiting the Sum of *ten Pounds* for every such Offence.

Penalty on Sealers for neglect of Duty.

And be it further enacted by the Authority aforesaid, That all Fines, Penalties and Forfeitures that shall arise and grow due by Vertue of this Act, or any Clause therein contained; shall accrue and be disposed of in Manner following, *viz.* One third Part thereof to the Treasurer of the County where the Offence is committed, for the defraying of County Charges; one third Part thereof to the Treasurer or Select-men of the Town where the Offender inhabiteth, to the Use of the Poor of such Town; and the other third Part to the Seizer or Seizers of such insufficient Leather, or to him or them that shall inform and sue for the said Fines, Penalties or Forfeitures; to be recovered by Action, Bill, Plaint or Information in any Inferiour Court of Common Pleas, or before any Justice of Peace, when the Matter doth not exceed the Value of *forty Shillings*.

Fines and Forfeitures how to be disposed.

And

Curriers liable to make good the value of all Leather seized for ill Workmanship.

And it is further enacted by the Authority aforesaid, That when and so often as any Leather belonging to any Tanner or other Person shall be seized and become forfeit for any Defect of the Currier in his Workmanship about or handling of the same; such Currier shall be liable to make good unto the Tanner or other Owner of such Leather so seized and forfeited, the full Value thereof, with his just Costs and Damages, to be recovered by Action to be therefore brought against such Currier in any Inferiour Court of Common Pleas, or before any Justice of Peace, if the Value exceed not *forty Shillings*: For the better ascertaining of which Value, the Persons to be appointed as aforesaid for viewing the Defects in Leather, shall (when the same is seized for being marred or spoiled by the Currier) through his ill Workmanship or handling, be also appointed to estimate and judge the Value thereof, and make Report of the same, together with the Defects.

C H A P. III.

An Act for establishing the Form of the Writ and Precept for calling a Great and General Court or Assembly.

5 W. & M.
ca. 11.

BE it enacted and ordained by the Lieutenant Governour, Council and Representatives, convened in General Assembly, and it is hereby enacted and ordained by the Authority of the same, That the Writ to be at any Time hereafter issued by the Governour or Commander in Chief of this Province for calling a Great and General Court or Assembly; as also the Precept to be issued by the Sheriff or Marshal in Observance thereof, to the Select-men of the several Towns, and their Return thereupon (when any Person or Persons shall be chosen to Represent them in the said Court) shall be the Forms following: *That is to say*:

Writ for calling a Great and General Court or Assembly.

WILLIAM the Third by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith &c.
To Our Sheriff or Marshal of Our County of S. within Our Province of the Massachusetts-Bay in New England. Greeting.

We Command, That upon Receipt hereof, you forthwith make out your Precept, directed unto the Select-men of each respective Town within your Precinct, requiring them to cause the Freeholders and other Inhabitants of their several Towns, duly qualified, as in and by Our Royal Charter is directed, to assemble at such Time and Place as they shall appoint, to elect and depute One or more Persons (being Freeholders and Resident in the same Town) according to the Number set and limited, by an Act of the Great and General Court or Assembly of Our aforesaid Province, to Serve for and Represent them respectively in a Great and General Court or Assembly by Us appointed to be convened, held and kept for Our Service; at the Town-House in *Boston*, upon the Day of next ensuing the Date of these Presents; and to cause the Person or Persons so elected and deputed by the major Part of the Electors present at such Election, to be timely notified and summoned by the Constable or Constables of such Town, to attend Our Service in the said Great and General Court or Assembly, on the Day above prefixed, by Nine in the Morning, and so *De Die in Diem*, during their Session and Sessions; and to return the said Precepts with the Names of the Person or Persons so elected and deputed, unto your self: whereof you are to make Return, together with this Writ, and of your Doings therein, under your Hand, into Our Secretary's Office at *Boston*, one Day at the least before the said Court's sitting. Hereof you may not fail at your Peril. Witness and Commander in Chief, in and over Our Province of the *Massachusetts-Bay* aforesaid. Given at *Boston* under the publick Seal of Our said Province, the Day of In the Year of Our Reign. *Annoque Domini*

By Command of
J. A. Secr.

Suffolk

Pounds.

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Suffolk, ff.

IN Observance of His Majesty's Writ to me directed : These are in His Majesty's Name to Will and Require you forthwith to cause the Freeholders and other Inhabitants of your Town, that have an Estate of Freehold in Land within this Province or Territory, of *Forty Shillings* per Annum at the least, or other Estate, to the Value of *Fifty Pounds* Sterling, To assemble at such Time and Place as you shall appoint ; then and there to elect and depu'te one or more Persons (being Freeholders and Resident in the same Town) according to the Number set and limited by an Act of the General Assembly, to Serve for and Represent them in a Great and General Court or Assembly, appointed to be convened, held and kept for His Majesty's Service at the Town-House in *Boston*, upon the Day of next ensuing the Date hereof ; and to cause the Person or Persons so elected and deputed by the major Part of the Electors present at such Election, to be timely notified and summoned by one or more of the Constables of your Town, to attend his Majesty's Service in the said Great and General Court or Assembly, on the Day above prefixed, by Nine in the Morning, and so *De Die in Diem*, during their Session and Sessions. Hercof fail not, and make Return of this Precept, with the Names of the Person or Persons so elected and deputed, with their being Summoned, unto my self Days at the least before the said Day of next. Given under my Hand and Seal at *B.* the Day of In the Year of His Majesty's Reign. *Annoque Domini* *A. B.* of the County of Suffolk.

To the Select-Men of the Town of
B. in the County abovesaid. Greeting.

PURsuant to the Precept within-written, the Freeholders and other Inhabitants of the Town of *B.* qualified as is therein directed, upon due Warning given, assembled and met together the Day of and then did elect and depu'te to serve for and represent them in the Session and Sessions of the Great and General Court or Assembly appointed to be convened, held and kept for His Majesty's Service at the Town House in *Boston*, upon the Day of the said Person being chosen by the major Part of the Electors present at said Meeting, Dated in *B.* aforesaid the Day of *Anno Domini*

The Person chosen as abovesaid,
notified thereof and summoned
to attend accordingly, by me
A. B. Constable of B.

A. B.
C. D.
E. F. } Select-Men
of B.

Return to be
indorsed on
the Precept.

C H A P. IV.

An Act for providing of Pounds, and to prevent Rescous and Pound-Breach.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there shall be a sufficient Pound or Pounds made and maintained from Time to Time, in every Town and Precinct within this Province, in such Part or Places thereof, as the Select-men shall direct and appoint, at the Cost and Charge of such Town or Precinct ; for the impounding and restraining of all Swine, Cattel or Sheep, liable to be Impounded or Restrained, for any of the Causes herein after mentioned.

And that it shall and may be lawful to and for any other Person or Persons as well as the Hawards or Field-Drivers, to take up and Impound, or cause to be impounded, any Swine, Neat Cattel, Horses or Sheep, as shall be found damage feasant in any Corn-Field, or other Inclosure ; or Swine found unyoked or unringed ; Neat Cattle, Horses or Sheep going upon the Common, not allowed

Each Town
to maintain
a sufficient
Pound.
2 A. ca. 3.
1 & 2 G. 2 ca. 3.

For what
Causes Cattel
&c. are to be
Impounded.

Fee for Impounding.
5 W & M. ca. 9.

lowed to feed there by the major Part of the Propriety, who are impowred to permit the same; any Law to the contrary notwithstanding. And the Owners or Claimers of any such Creatures Impounded as aforesaid, shall pay the Fees set in and by an Act Intituled, *An Act for regulating of Fences, Cattell, &c.* unto the Pound-keeper, before they be delivered out of Pound; as also the Fee to the Party Impounding, and Damage to the Party injured; unless such Owner or Claimer shall think fit to Replevie his Creatures Impounded, and give sufficient Bond with one or more Sureties to prosecute the Replevin with Effect in Law, either before a Justice of the Peace, within fifteen Days inclusive from the Date of such Replevin, or at the next Inferiour Court of Common Pleas to be holden within the same County, according to the Value and Damages alledged to be suffered, and to pay all such Costs and Damages as shall be awarded against him.

The Owner of Creatures Impounded to be notified thereof (if known) if not the Creatures to be cryed, and posted up.
Fee for Crying.

After three Days, to be proceeded with as Strays.

And every Person Impounding any Swine, neat Cattell, Horses or Sheep, shall give present Notice thereof unto the Owner, if known; or leave a Notification thereof in Writing at his House or Place of usual Abode: or if unknown, shall cause the same to be publickly cried or posted up in some publick Place in such Town, and in the two next neighbouring Towns, from whence it may be most likely such Creatures came. And shall also cause the Creatures so Impounded to be relieved with suitable Meat and Water; the Charge whereof shall be paid by the Owner or Owners; as also of the Crying of them, after the Rate of *three Pence* per Head, for a Number not exceeding Twelve; and no more than *three Shillings* for a greater Number. And if no Owner or Claimer appear within the space of three Days next after the Impounding of any such Creatures; then the Person or Persons so restraining of them shall proceed with them as the Law provides respecting Strays.

Penalty for a Rescous.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall rescue any Swine, neat Cattell, Horses or Sheep taken up as aforesaid, out of the Hands of the Haward, or other Person being about to drive them to the Pound; whereby the Party injured may be liable to lose his Damages, and the Law be eluded: the Party so offending, shall for such Rescous, forfeit and pay the Sum of *Forty Shillings* to the Use of the Poor of the Town or Precinct where the Offence is committed; besides all just Damages unto the Party injured; to be recovered by Action, Bill, Complaint, or Information in any of his Majesty's Courts of Record. And if any Person or Persons shall make any Pound-Breach; or by any other indirect Ways or Means

Penalty for Poundbreach.

howsoever, convey or deliver any Creatures Impounded, out of the Pound; the Party so offending being duly convicted thereof, shall forfeit and pay the Sum of *Five Pounds*, to the Use of the Poor of the Town or Precinct where the Offence is committed; as also all just Damages to the Party injured by such Creatures, to be had and recovered in Manner as aforesaid. And if such Rescous Pound-Breach, or conveying of Creatures out of the Pound, happen to be committed by any Apprentices or Persons under Age, not having of their own wherewith to satisfy the Law, and their Parents or Masters refuse to pay the Fine and Damages, which the Law in such Case does inflict; it shall and may be lawful to and for the Justices before whom such Action or Complaint shall be depending; upon a due Conviction of the Person or Persons complained of, and prosecuted for such Offence, to commit him or them to the next Goal in the County where the Offence is done, there to remain till Satisfaction be made as above-said: Or otherwise may punish such Offender by Imprisonment, not exceeding sixty Days, in Lieu of the Fine; and leave the Party injured to his Remedy at Law, to recover his Damage of the Parent or Master of such Child or Apprentice; which such Parent or Master respectively shall be liable to have recovered of him upon Action to be therefore brought; and Execution to be accordingly awarded upon Judgment given in that Respect.

Committed by Apprentices or Persons under Age, how to be punished.

Trespass done in common or general Fields.
5 W & M. ca. 9.

And be it further enacted by the Authority aforesaid, That when and so often as any Trespass or Trespases shall be done in common or general Fields, not being sufficiently fenced in, as the Law directs; the Party injured shall forthwith procure two sufficient Persons of good Repute and Credit, to view and adjudge of the Damage done, giving Notice of such Trespass unto the Owner or Claimer of

Trespases.

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of the Beast or Cattle that did the same (if known and Resident in the same Town, or near by) that he may be present and nominate one of the Apprizers if he see Cause; and the Damage to be answered according to such Estimation.

And where Damage happens through the Insufficiency of the Fence, the Owner or Occupier of the Land to which the defective Fence belongs, shall be liable to answer and make good all such Damage.

The Owner of defective Fence, to make good Damages.

C H A P. V.

An Act for preventing of Trespases.

23 *It enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same,* That all and every Person and Persons which shall unlawfully cut or take away any Grass, Corn or Grain, growing; or rob any Orchard or Garden; or break or cut, pull down or remove any Hedge, Pale, Rail or Fence; or that shall hurt or dig, or pull up, or take away any Grafts or Fruit-Trees: and their Procurers or Receivers knowing the same, being thereof convicted by Confession of the Party, or by the Testimony of sufficient Witnesses upon Oath before any Court, or any one Justice of the Peace in the County where the Offence shall be committed; shall pay unto the Party injured, such Recompence as by the Court or Justice before whom the Trespass is found, shall be awarded.

Robbers of Orchards, Gardens &c. how to be punished.

Additional Act.
12 G. ca. 5.
13 G. ca. 7.
1 G. 2. ca. 4.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall cut or carry off any Manner of Wood, Underwood, Timber, Poles, or Trees standing, lying or growing on the Land of any others; or off or from the Commons of any Town, other than that to which he doth belong; or within the same Town, having no Right or Privilege there, without Leave or Licence from the major Part of the Propriety of such Commons; or the Owner or Owners of the Land whereon such Wood, Underwood, Timber, Poles or Trees were standing, lying or growing: Every Person so offending, shall forfeit and pay unto the Party or Parties injured or trespassed upon, the Sum of *twenty Shillings* for every Tree of one Foot over; and *ten Shillings* for every Tree or Pole under that bigness; and for other Wood or Underwood, treble the Value thereof; to be recovered by Action, Bill, Complaint or Information, before any Justice of the Peace in the County where the Offence is committed; if the Forfeiture exceed not *Forty Shillings*: but if it be above that Value, then before the Inferiour Court of Common Pleas within the same County. And if any Person shall be convicted of such Offence a second Time, he shall forfeit and pay to the Use of the Poor of the Town where the Offence is committed, the Sum of *Twenty Shillings*, or suffer one Months Imprisonment over and above the Forfeiture aforesaid, or Damages to the Party injured.

Penalty for cutting or carrying off any Trees, Wood, &c. from off another Man's Land, or off the Common.

Forfeiture upon a second Conviction.

And be it further enacted by the Authority aforesaid, That if any Children or Servants shall offend against this Act in any of the Particulars therein mentioned, and their Parents or Masters refuse to answer the Forfeiture or Damage awarded against them; they shall be punished by Whipping, setting in the Stocks or Cage, or by Imprisonment, at the Discretion of the Court or Justice before whom the Prosecution shall be; according to the Nature and Degree of the Offence, and Circumstances aggravating.

Children or Servants offending against this Act how punish'd.

And be it further enacted by the Authority aforesaid, That when in Action of Trespases brought before a Justice of Peace, the Defendant shall justify and demur upon Plea of Title, a Record shall be made thereof, and the Matter of Fact be taken *pro confesso*, and the Party making such Plea shall become bound with one or more Sureties by way of Recognizance unto the adverse Party in a reasonable Sum, not exceeding *Twenty Pounds*; on Condition that he shall pursue his Plea and bring forward a Suit for a Trial of his Title, at the next Inferiour Court of Common Pleas to be holden for the County, in which such Trespass is alledged to be done, and pay and satisfy all such Damages and Costs as by the said Court shall be awarded against him; which Recognizance the Justice is hereby impowred to require and take, and shall be paid for the same

In Action of Trespases before a Justice of Peace if the Defendant justify on Plea of Title, the Cause to be removed, and Bond given.

Upon neglect
or refusal to
give Bond, in
Case to pro-
ceed.

by the Reconuscer *two Shillings*, and *one Shilling* for recording his Plea; and at the Charge also of the same Party shall certify the Process and Record of such Plea, together with the Recognizance, unto the said Inferiour Court of Common Pleas. And if such Reconuscer shall neglect to bring forward such Suit at the Inferiour Court, according to the Tenor of his Recognizance; the Default shall be recorded, and a Writ of *Scire Facias* be issued out of the Clerk's Office of the same Court, in manner as by Law is directed, for the recovery of the Sum or Penalty in the Recognizance mentioned, of him, his Surety or Sureties. Or if upon Trial before the said Court he shall not make out a Title to the Land or Tenement on which the Trespass is laid to be done, paramount to the Possession or other Title of the adverse Party: Judgment shall be rendred for the Party trespassed upon, for treble Damages and Costs of Suit. But if the Defendant in Trespass justifying on Plea of Title shall refuse or neglect to become bound in Manner as aforesaid, then his Plea shall abate, and the Justice notwithstanding the same, shall proceed to try the Cause; and upon due Proof of the Trespass committed by him, shall award Damages against him according to what shall be made out; and Cost of Suit.

Breach of the
Peace to be
punished.

And be it further enacted, That if in the Opening and Pleading of any Action of Trespass, there be disclosed and proved any Breach of the Peace, the Party or Parties guilty thereof, shall be fined to the King; or otherwise punished as the Law in such Case provides.

C H A P. VI.

An Act against receiving of Stolen Goods.

Preamble.

WHEREAS divers lewd and evil-minded Persons for the sake of filthy Lucre, do frequently receive from Indians, Molattos, Negroes, and other suspected Persons, Money and Goods stolen, or obtained by other indirect and unlawful Ways and Means, thereby encouraging of Theft:

For Redress whereof:

Persons re-
ceiving or
buying stolen
Goods &c.
to make Resti-
tution.

Be it declared and enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Person whosoever which shall presume either openly or privately, to buy or receive of or from any *Indian, Molatto, or Negro* Servant or Slave; or of any known, dissolute, lewd and disorderly Person, of whom there is just Cause of Suspicion; any Money, Goods, Wares, Merchandizes, or Provisions; and it appear the same Money, Goods, Wares, Merchandizes or Provisions to have been stolen, gotten or obtained by any indirect or unlawful Ways or Means: every Person so offending, and being thereof convicted, shall be sentenced to restore all such Money, Goods, Wares, Merchandizes or Provisions, unto the Party injured in Specie (if not altered) and also forfeit to the said Party the Value thereof over and above; or double the Value, where the same are disposed of or made away. And if the Person so offending be unable, or shall not make Restitution as awarded, then to be openly whipt with so many Stripes (not exceeding twenty) as the Justices or Court that may have Cognizance of the Offence shall order; or to make Satisfaction by Service. And the *Indian, Negro, Molatto*, or other suspicious Person as aforesaid, of or from whom such Money, Goods, Wares, Merchandizes or Provisions shall be received or bought, shall be punished by Whipping, not exceeding twenty Stripes; and be further prosecuted as the Law directs in Case of Theft; unless where such Money, Goods or Provisions shall be taken from the Master of such Person.

If unable to
make Resti-
tution, to be
corporally
punished.

10 G. ca. 1.

C H A P. VII.

An Act relating to Strays and lost Goods, &c.

WHEREAS it enacted by the Lieutenant Governour, Council and Representatives, convened in General Assembly, and by the Authority of the same, That whosoever shall find any Money or Goods lost, whereof the Owner is not known; the Finder within six Days at the farthest next after, shall give Notice thereof in Writing unto the Clerk of the Town in which they were found, to be entred in a Book to be kept for that Purpose; and shall also cause the same to be cried by the Constable or publick Cryer in such Town, on three several Days at a publick Meeting of the Inhabitants thereof; and to be posted up in some publick Place: And if the Money or Goods so found, be of the Value of *twenty Shillings*, or upwards, then to be cried and posted up in like Manner at the two next adjacent Towns.

Money or Goods found, to be entred with the Town-Clerk in six Days after finding. Additional Act, 1 G. 2. ca. 7.

To be cried and posted.

And he it further enacted by the Authority aforesaid, That every Person who shall find and take up any stray Beast, shall cause the same to be entred, with the Colour and Marks, Natural and Artificial; and also to be posted up and cried in Manner and Time as aforesaid; and likewise within twenty-four Hours shall put, and from Time to Time keep a Wyth about the Neck of such stray Beast; on pain of losing all his Charges about it afterwards.

Stray Beasts to be cried, posted and wythed.

And the Finder of any lost Goods, or stray Beast, shall also within the Time before-mentioned, notify the next Justice of the Peace within the same County, thereof; and such Justice shall forthwith thereupon order the same to be apprized by two meet Persons by him to be appointed, and shall administer an Oath unto them to deal justly and indifferently therein.

The next Justice to be notified of lost Goods, and Strays, The same to be apprized.

And if the Finder of any lost Goods, or stray Beast, shall neglect to cause the same to be entred, cried, and posted up in Manner and Time as before is express'd, or to Wyth such Beast; or if the Town Clerk shall neglect to enter any lost Money, Goods or Stray, whereof he shall be notified, and have tendered unto him the Fee of *six Pence*, (which he may demand and receive, and no more) such Finder or Town-Clerk, for such Omission and Default respectively, shall forfeit and pay to the Use of the Poor of such Town, one third Part of the full Value of such lost Money, Goods or Strays.

Penalty on the Finder for neglect of entering, crying and posting, and on the Town Clerk for his Neglect.

And it is further enacted, That if the Owner of any such lost Money, Goods, or stray Beast, appear within the space of one Year next after such Publication as aforesaid, and make out his Right and Title thereto, he shall have Restitution of the same, or the full Value thereof; allowing and paying *three Pence* for each Time it was cried, *six Pence* for entering thereof as aforesaid; as also paying such necessary Charges as shall have arisen, for the keeping of such Strays, lost Money or Goods, or necessary travel about them, to be adjusted and determined by the Justice that ordered the apprizal thereof; or by some other Justice in the same County.

Restitution to be made to the Owner.

Fee for crying and entering.

And if no Owner appear within one Year as aforesaid, then such Strays, lost Money or Goods, shall be to the Finder; he paying one Half of the Value thereof (all necessary Charges being first deducted) according to Appraisement, unto the Treasurer or Overseers of the Poor of such Town, for the Use of the Poor thereof; and to be recovered by the Town Treasurer, Select-men or Overseers of the Poor respectively, as in other Cases, upon neglect or refusal to pay the same.

No Owner appearing, to be divided betwixt the Finder & the Poor of the Town.

And it is further declared and enacted by the Authority aforesaid, That if any Owner of any stray Beast, or other Person, shall take the Wyth off from the same, or take away such Stray before all the necessary Charges arisen for the entering, crying, and keeping thereof, be defreyed; such Person so offending shall forfeit and pay unto the Finder of such Stray, the full Value of the same.

Penalty for taking off the Wyth, or taking away any Stray.

All the Penalties and Forfeitures in this Act mentioned, to be recovered by Action, Bill, Plaint or Information, before a Justice of the Peace; where the Value exceeds not his Recognizance; or in any other of his Majesty's Courts within this Province.

Penalties, &c. how to be recovered,

Provided,

No Strays to be made from the first of *March* to the first of *December* - *Provided*, That no Person from the first Day of *March* to the first Day of *December* yearly, shall take up any Horse, Gelding, Mare or other Beast for a Stray; or account or use them as Strays, though the Owner thereof be not known; unless such Beast be taken Damage feasant in Inclosures.

C H A P. VIII.

An Act for the inspecting and suppressing of Disorders in Licenced Houses, &c.

W *It enacted and declared by the Lieutenant Governour, Council and Representatives convened in General Assembly, and by the Authority of the same, That all Inn-holders, Taverners and common Victuallers, shall at all Times be furnished with suitable Provisions and Lodging for the Refreshment and Entertainment of Strangers and Travellers; Pasturing, Stable-Room, Hay, and Provender for Horses; on pain of being deprived of their Licence.*

And that no Person who is or shall be Licenced to be an Inn-holder, Taverner, common Victualler, or Retailer, shall suffer any Apprentice, Servant, or Negro, to sit drinking in his or her House; or to have any manner of Drink there, without special Order or Allowance of their respective Masters; on pain of forfeiting the Sum of ten Shillings for every such Offence. Neither shall any licenced Person suffer any Inhabitant of such Town where he dwells, or coming thither from any other Town, to sit drinking or tippling in his or her House, or any of the Dependencies thereof; or to continue there above the space of one Hour (other than Travellers, Persons upon Business or extraordinary Occasions,) on the like Penalty of ten Shillings for every Offence.

And every Person who contrary to this Act, shall continue in any such House tippling or drinking, or otherwise misordering him or her self; or above the space of one Hour (other than as aforesaid) shall forfeit and pay the Sum of three Shillings and four Pence, or be set in the Stocks, not exceeding four Hours Time.

And no Person or Persons licenced as aforesaid, shall suffer any Person to drink to Drunkenness, or Excess, in his or her House; nor shall suffer any Person as his or her Guest to be and remain in such House or any of the Dependencies thereof, on the Lord's Day, other than Strangers, Travellers, or such as come thither for necessary Refreshment; on pain of forfeiting the Sum of five Shillings for every Offence in that Kind.

And be it further enacted by the Authority aforesaid, That all Fines and Forfeitures arising for any of the Offences before-mentioned, shall be one Moiety thereof to the Use of the Poor of the Town where the Offence is committed; and the other Moiety to him or them that shall inform and prosecute for the same; (except where such Offences are presented by a Grand Jury, in which Case, the whole Forfeiture to be to the Use of the Town.) And every Justice of the Peace within his Precincts, is hereby impowred to hear and determine concerning any of the Offences aforesaid, and to restrain and commit the Offender to Prison, until he pay and satisfy the Penalty or Forfeiture; or otherwise by Warrant cause the same to be levied by Distress and Sale of the Offenders Goods.

And be it further enacted by the Authority aforesaid, That before any Person shall receive Licence to be an Innholder, common Victualler, Taverner or Retailer; every such Person shall become bound by Recognizance to His Majesty, in the Sum of ten Pounds the Principal, and two Sureties in five Pounds a piece, before one or more of the Justices of the General Sessions of the Peace: On Condition following.

That is to say:

T *He Condition of this Recognizance is such, That whereas the above-bounden A. B. is admitted and allowed by the Justices of the Court of General Sessions of the Peace, to keep a common Inn, Ale-House or victualling House, and*

Inn-holders, &c. to be provided for Entertainment of Men and Horses.
4 W. & M. ca. 7.

Penalty for entertaining of Servants or Negroes, &c.
12 G. ca. 6.

None to continue in publick Houses above one Hour, unless, &c.
1 & 2 A. ca. 4:
11 A. ca. 1.

None to be suffered to be Drunk there, or to be there on the Lord's Day, unless, &c.
7 W. ca. 7.

Penalties, &c. how to be employed.

Justice of the Peace, his Power.

No Inn-holder, &c. to receive Licence before entering into Recognizance.

Recognizance for Inn-holders, &c.

Licenced Houses, &c.

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and to use common selling of Wine, Beer, Ale, Cyder, and other strong Liquors by Retail for the space of one whole Year next ensuing, and no longer, in the now dwelling House of the said *A. B.* in *C.* commonly known by the Sign of— and no other : If therefore the said *A. B.* during the Time aforesaid shall not permit, suffer or have any playing at Dice, Cards, Tables, Quoits, Loggets, Bowls, Shuffle-board, Nine-pins, Billiards ; or any other unlawful Game or Games in his House, Yard, Garden, Back-side or any of the Dependencies thereof ; nor shall suffer to be or remain in his House, any Person or Persons, (not being of his ordinary Household or Family) on the Lord's Day, or any Part thereof, contrary to Law ; nor shall sell any Wine, Liquors or other strong Drink to any Apprentices, Servant, Indians or Negroes, nor shall suffer any Person or Persons to be there tipling, drinking, or continue there after nine of the clock in the Night Time, or otherwise contrary to Law. And in his said House, shall and do use, maintain and uphold good Order and Rule, and do endeavour the due Observance of the Laws made for Regulation of such Houses : Then this present Recognizance to be void ; but on Default thereof, to abide and remain in full Force and Virtue.

And before any Person shall receive Licence to Retail any Wine or strong Liquors to be spent out of Doors, and not otherwise, such Person shall become bound by Recognizance as aforesaid : *On Condition following.*

That is to say :

THE Condition of this Recognizance is such, That whereas the above bound-
Recogni-
zance for Re-
tailers out of
Doors.
ten A. B. is licenced and allowed by the Justices of the Court of General Sessions of the Peace, to Retail for the space of one whole Year next ensuing, and no longer, out of his now Dwelling House in *C.* Sort of strong Liquors

to be spent out of Doors, and not otherwise : If therefore the said *A. B.* shall not entertain or suffer any Person or Persons to sit drinking or tipling in his House, Cellar, Back-sides, or any of the Dependencies of the said House, nor shall sell any other Sort of Drink than what he is licenced for as aforesaid. And shall and do in and by all Things observe the Directions of the Law relating to Persons licenced for retailing out of Doors only : Then this present Recognizance to be void ; but on Default thereof to abide and remain in full Force and Virtue.

For each of which aforesaid Recognizances the Party to whom such Licence shall be granted, shall pay *two Shillings*, to be divided betwixt the Justice and the Clerk.

And for the better inspecting of licenced Houses, and the discovery of such Persons as shall presume to sell without Licence :

If it enacted by the Authority aforesaid, That the Select-Men in each Town respectively shall take due Care, that Tything-men be annually chosen at the general Meeting for choice of Town Officers, as is by Law provided, and upon any Vacancy to fill up the Number at any other Town Meeting : which Tything-men shall have Power, and whose Duty it shall be carefully to inspect all licenced Houses, and to inform of all Disorders or Misdemeanours which they shall discover or know to be committed in them, or any of them, to a Justice of the Peace, or Sessions of the Peace within the same County ; as also of all such as shall sell by Retail, without Licence ; and other Disorders or Misdemeanours committed in any such House ; and in like Manner to present or inform of all idle and disorderly Persons, prophane Swearers or Cursers, Sabbath-breakers, and the like Offenders ; to the Intent such Offences and Misdemeanours may be duly punished and discouraged : Every of which Tything-men shall be sworn before a Justice of the Peace, or at the Sessions of the Peace, to the faithful Discharge of his Office in Manner following. *That is say :*

YOU *A. B.* being chosen a Tything-man within the Town of *C.* for one Year next ensuing, and until another be chosen and sworn in your Stead : Oath. Do Swear, That you will faithfully endeavour and intend the Duty of your Office. So help you God.

Which

Staff.

Which Tything-men shall have a black Staff of two Foot long, tip't at one End with Brass about three Inches, as a Badge of their Office; to be provided by the Select-men at the Charge of the Town.

Penalty for not serving.

And be it further enacted by the Authority aforesaid, That if any Person being duly chosen to the said Office, shall refuse to take his Oath, or serve therein, he shall forfeit and pay the Sum of *forty Shillings*, to the Use of the Poor of the Town whereto he belongs: upon Conviction of such refusal before the Justice of the Peace, or Sessions of the Peace where he is summoned to be Sworn, Certificate being produced under the Hand of the Town Clerk, that such Person was legally chosen to that Office. And the said Forfeiture to be levied by Distress and Sale of such Persons Goods, by Warrant from a Justice of the Peace, or Sessions of the Peace respectively; and delivered to the Town Treasurer or Overseers of the Poor, for the Use aforesaid. And for want of such Goods whereon to make Distress, the Officer in the said Warrant shall be required to seize the Body of the Offender, and him commit unto Prison, to be there kept, until he shall answer and pay the said Fine or Forfeiture, with the Charges of levying the same.

Tything-men allowed the benefit of Informers.

And all Tything-men that shall inform and prosecute for the Breach of any penal Act, shall have the Benefit of such Part of the Forfeiture as does by Law accrue unto the Informer. And all Persons prosecuted for Breach of any Act relating to retailing without Licence, the Penalty whereof for one Offence exceeds not *forty Shillings*, besides Charges, may be convicted by two single Evidences upon Oath, though but one to one Breach of such Act, so as both the Breaches be within one Month, the Person accused or complained of not plainly and positively denying the Fact.

Licenced Persons also to enter into Recognizance for paying their Excise.

And be it further enacted by the Authority aforesaid, That every Person to whom any Licence shall be granted, before the receiving or exercising of the same, over and above the Recognizance required for the due Observation of the Laws, and keeping of good Rule and Order as aforesaid, shall also become bound unto His Majesty in a distinct Recognizance, with sufficient Sureties, in Manner as aforesaid, and in such Sum as the Justices in Sessions shall appoint: On Condition that the Person so licenced shall duly and truly pay the Duties of Excise for his Draught, according to the Rates by Law established, or otherwise perform such Agreement for the same as shall be made with the Officer or Officers, that shall from Time to Time be appointed to agree for, and receive the said Duties. For which Recognizance he shall pay the like Fee before-mentioned.

Licence to be granted at the next General Sessions of the Peace, after the 29 of June annually.

And be it further enacted, That for the future the Time of granting of Licences to Inn-holders and Retailers of Drink, shall be at the first General Sessions of the Peace that shall be held and kept in Course within the several Counties at or next after the nine and twentieth Day of *June* annually; and that such as have already obtained Licences, shall hold them (unless they forfeit the same by Breach of Law) until the General Sessions of the Peace to be held in the respective Counties as aforesaid, next after the nine and twentieth Day of *June*, One Thousand six Hundred ninety nine: Any Law or Usage to the contrary notwithstanding.

And the better to prevent Nurseries of Vice and Debauchery:

No more Persons to be licenced to keep public Houses, than what are necessary for Refreshment of Travellers.

It is further declared, That the Justices of the General Sessions of the Peace in each County respectively be, and hereby are directed not to Licence more Persons in any Town or Precinct to keep Houses for common Entertainment, or to retail Ale, Beer, Cyder, Wine or strong Liquors within or out of Doors, than the said Justices shall judge necessary for the receiving and Refreshment of Travellers and Strangers; and to serve the publick Occasions of such Town or Precinct; having Regard to the Law for the Qualification and Approbation of the Persons so to be licenced. And all publick Houses shall be on or near the high Streets, Roads, and Places of great Resort.

Public Houses to be on High Streets, &c.

Clerks of the several Courts to put in Suit Recognizances.

And be it further enacted by the Authority aforesaid, That the Clerk of the Inferiour Court of Common Pleas in each several County; and the Clerk of the Superiour Court of Judicature respectively, by Direction of the Court from
Time

Fences, Cattel, &c.

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Time to Time, shall by Writ of *Scire Facias* prosecute to Effect all such Recognizances as shall be taken in Court, or before any Justice, whereof Default is or shall be made in not performing the Condition of the same : And upon Execution awarded, to make out such Execution unto the Sheriff of the County, or his Deputy ; who are accordingly to, levy the Sum therein expressed ; and to account for the Monies or Estate levied for Satisfaction thereof, unto the Treasurer, as by Law he is obliged. And no Recognizance for the keeping of good Rule and Order in publick licenced Houses, or for Retailing out of Doors, shall be put in Suit for any Breach thereof made, after the Expiration of two Years from the Time of taking such Recognizance.

C H A P. IX.

An Act for Explanation and Addition to the Act for Regulating of Fences, Cattel, &c.

FORASMUCH as in and by an Act of this Province, Intituled, An Act for Regulating of Fences, Cattel, &c. made and passed in the fifth Year of the Reign of his present Majesty, and his late Royal Consort Queen Mary, of blessed Memory ; amongst other Things therein contained : It is Enacted, " That in every Town and Peculiar within this Province, there be annually chosen by the Inhabitants thereof, two or more meet Persons to be Viewers of Fences ; " but no Penalty provided by the said Act in Case the Persons so chosen refuse to accept thereof : 5 W. & M. ca. 9, and References.

Be it therefore enacted and declared by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That every meet Person that shall hereafter be chosen a Viewer of Fences within any Town or Peculiar in this Province, refusing to accept thereof ; or to be Sworn to the faithful Discharge of that Office ; shall forfeit and pay to the Use of the Poor of such Town or Peculiar, the Sum of *twenty Shillings* ; and another shall be forthwith chosen in his Room. And every Person from Time to Time, chosen and Sworn to the said Office, upon due Notice given him, and being requested by any Person or Persons interested, to view any insufficient and defective Fence in and about any general or common Field ; or in and about any particular Field or Inclosure ; shall forthwith attend the same ; on pain of forfeiting the Sum of *twenty Shillings* ; one Moiety thereof to the Use of the Poor of the Town or Peculiar ; and the other Moiety to him that shall inform and sue for the same. And each Fence-Viewer shall be allowed *three Shillings* a Day ; and proportionably for half a Day ; and under that *five Pence* an Hour, for his Time spent in viewing of any Fence or Fences ; to be paid him by the Party that sets him on Work, who shall be reimburs'd the same by the Owner or Owners of the defective Fence. And when and so often as it shall happen any Fence to be broken or fallen down, or to be otherwise defective ; the Owner or Occupant of the Land to which such Fence belongs, upon Notice thereof given him, shall forthwith repair the same. And in Case he refuse or neglect so to do, the Fence-Viewers shall cause the same to be sufficiently repaired, as the Law directs. And all divisional Fences betwixt Man and Man shall be kept up in good Repair for the whole Year ; unless the Proprietors of the Lands shall otherwise agree. Penalty for not serving as a Fence-Viewer.

Penalty for not attending his Duty.

Allowance.

And be it further enacted by the Authority aforesaid, That for the better enabling of the Fence-Viewers to discharge their Duty according to the true Intent of the Law, it shall and may be lawful to and for any Fence-Viewer, by Warrant from the next Justice of the Peace, or Select-Men, (in such Towns where no Justice dwells) or the major Part of them, who are hereby respectively empowered to make out such Warrant, to impress Workmen and Teams for the speedy repairing and making up of Fences that are defective or wanting ; paying double the usual and accustomed Rates for such Teams and Workmanship, and to the Fence Viewers to be empowered by a Warrant to impress Workmen, &c.

Fence of
common
Fields to be
maintained
by the Pro-
prietors in
proportion.

Fence-Viewer for his Time ; to be adjusted and determined by the Select-Men ; and to be by him recovered against the Owner or Occupier of the Land about which such Fence is set down or repaired, in Manner as the Law directs.

And be it further enacted by the Authority aforesaid, That every Party interested in any common or general Field, shall from Time to Time make and maintain his just and due Part and Proportion of the Fence for enclosing the same according to his Interest therein, in such Manner as hath or shall be agreed on by the major Part of the Propriety ; the whole being duly warned and met to order the same ; and the Orders so made shall be binding and obliging upon the Proprietors absent : And a third Part of the Propriety in such common or general Field, shall and may call and summon a Meeting of the Whole from Time to Time, as there shall be Cause.

And no Proprietor in any such Field shall put or cause to be put any Beast, Cattel or Sheep thereinto, over and above the Number allowed him ; or keep them longer there than the Time set and limited by the major Part of the Propriety or Interested ; on Penalty of answering double the Damages that shall happen or accrue thereby, to be recovered in any Court proper to try the same.

Partition-
Fences to be
maintained
by the Pro-
prietors in e-
qual Halves.

And it is further enacted, That all Partition-Fences betwixt Lands under Improvement, shall be made and maintained from Time to Time in equal Halves by the Owners or Proprietors of such Lands respectively. And in Case any Proprietor of Land shall improve his Land (the Land adjoining not being under Improvement) and so make the whole Partition-Fence ; when and so soon as the Owner or Proprietor of the adjoining Land shall also improve his, he shall pay for the one Half of such Partition-Fence, according to the Value thereof at that Time, and keep up and maintain his half Part thereof from thenceforward. But if either of such Proprietors adjoining do cease to make Improvement of his Land, he that continues so to do, shall have Liberty to purchase the other Part of such Partition-Fence, as it shall then be valued to be worth, by Persons indifferently chosen by each Party for that Purpose : And in case any Person improving as aforesaid, shall neglect or refuse to make and maintain one Half of the Partition-Fence betwixt his Land and the Land next adjoining ; the Owner or Proprietor of such Land adjoining, shall be liable to a Suit, and to have recovered of him in any Court proper to try the same, the full Value of the one Half of such Partition-Fence according to Estimation thereof upon Appraisement, by the other Party who makes and maintains the whole Fence, together with his Damage sustained by such Neglect or Refusal as aforesaid : Saving always to every Person and Persons any particular Agreement or Agreements touching the making and maintaining of such divisional Fence between their Lands.

Fines & Penalties where to
be recovered.

All Fines, Penalties, Forfeitures or Payments accruing by Virtue of this Act from Time to Time, to be had sued for and recovered in any Court proper to try the same.

Proviso for
House-Lots
not exceeding
ten Acres.

Provided, This Act shall not extend to House-Lots not exceeding ten Acres : but if the Owner or Owners of such Lots shall improve, his Neighbour shall be compellable to make and maintain one half of the Fence between them, whether he improve or not.

Major Part of
the Propriety
in any general
Field, to lay
down the same
at Pleasure.

Provided also, That it shall and may be lawful, to and for the major Part of the Interests or Propriety in any common or general Field, to dissolve and lay down the same at Pleasure ; all the Proprietors being first duly warned ; and there being six Months Time given before any such Field is laid down.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Doston* the twenty-fifth Day of *May* 1698. And continued by Prorogation until the fifteenth of *November* following.

C H A P. X.

An Act in Addition to, and Explanation of the Act against Adultery and Polygamie, made in the sixth Year of the Reign of King *William* and Queen *Mary*.

WHEREAS in the Act Intituled, An Act against Adultery and Polygamie, It is provided in these Words, " Provided always that this Act ^{6 W. & M. ca. 4.} or any Thing therein contained shall not extend to any Person or " Persons whose Husband or Wife shall be continually remaining beyond the Seas " by the space of *seven Years* together ; or whose Husband or Wife shall absent " him or her self the one from the other by the space of *seven Years* together, " in any Part within their Majesties Dominions, or elsewhere, the one of them " not knowing the other to be living within that Time." Which Limitation of *seven Years* is in some Cases found to be excessive and inconvenient :

Therefore for the better preventing the Violation of the seventh Commandment, and for obtaining the Blessings God is wont to bestow upon the Keepers of the same :

Be it enacted and declared by the Lieutenant Governour, Council and Representatives, convened in General Assembly : and it is enacted and declared by the Authority of the same, That if any married Person, Man or Woman, has lately or shall hereafter go to Sea in any Ship or other Vessel, bound from one Port to another, where the Passage is usually made in three Months Time ; and such Ship or other Vessel has not been, or shall not be heard of within the space of three full Years next after their putting to Sea from such Port ; or shall only be heard of under such Circumstances, as may rather confirm the Opinion commonly received of the whole Company's being utterly lost : In every such Case, the Matter being laid before the Governour and Council, and made to appear ; the Man or Woman whose Relation is in this Manner parted from him or her, may be esteemed single and unmarried ; and upon such Declaration thereof, and Licence obtained from that Board, may lawfully marry again : Any Law, Usage or Custom to the contrary notwithstanding.

Limitation of
three Years.
in Case.

C H A P. XI.

An Act enabling Sheriffs, Constables, &c. to require Aid and Assistance in the Execution of their respective Offices, referring to Criminals.

FOR AS MUCH as it is oftentimes necessary, that Sheriffs, Under-Sheriffs and Constables be aided and assisted in the Execution of their respective Offices :

Additional
Act.
12 G. ca. 1.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives, convened in General Assembly, and by the Authority of the same, That when and so often as any Sheriff, Under-Sheriff or Constable shall be in the Execution of his Office, for the Preservation of the Peace, or for the apprehending or securing any Person or Persons for violating the same, or for

Penalty for refusal or neglect to aid or assist the Sheriff, &c.

any other criminal Matter or Cause; it shall and may be lawful to and for such Sheriff, Under-Sheriff or Constable to require suitable Aid and Assistance therein. And if any Person or Persons being required by any Sheriff, Under-Sheriff or Constable in his Majesty's Name, to aid and assist him in the Execution of his Office as aforesaid, shall neglect or refuse so to do, and be thereof convicted before one or more of his Majesty's Justices of the Peace; such Offender or Offenders shall be fined, to the Use of the Poor of the Town where the Offence shall be committed, not exceeding *forty Shillings*, at the Discretion of such Justice or Justices, according to the Circumstances aggravating or lessening such Offence. And if such Offender or Offenders be unable or shall not forthwith pay the said Fine, such Justice or Justices may punish him or them by Imprisonment, not exceeding forty eight Hours; or by setting in the Stocks not exceeding four Hours.

Penalty for pretending to be a Sheriff, &c. and not to *bona fide*.

And if any Person or Persons not being really and *bona fide* a Sheriff, Under-Sheriff, or Constable, shall presume to abuse his Majesty's Name and Authority in pretending him or themselves to be any or either of the said Officers, and take upon him or themselves to act as such, or to require any other Person or Persons to aid or assist him or them in any Matter or Thing belonging to the Duty of a Sheriff, Under-Sheriff or Constable; every Person or Persons so offending, and being thereof convicted, shall forfeit and pay a Fine not exceeding *One Hundred Pounds*, according to the Nature and Circumstances aggravating his Offence, at the Discretion of the Court before whom the Conviction shall be; one Moiety of the said Fine or Forfeiture to be unto his Majesty, towards the Support of the Government within this his Majesty's Province; and the other Moiety to him or them that shall inform and prosecute for the same.

Justices may Command any Person to apprehend an Offender.

And be it further enacted by the Authority aforesaid, That any of his Majesty's Justices of the Peace, for the Preservation of the same, or upon View of the Breach thereof; or of any other Transgression of Law proper to his Cognizance done or committed by any Person or Persons whatsoever, shall, and hereby is impowred (in the Absence of a Sheriff, Under-Sheriff or Constable) to require any Person or Persons to apprehend and bring before him such Offender or Offenders. And every Person or Persons that shall neglect or refuse to obey any Justice or Justices in apprehending such Offender or Offenders, being thereunto required as aforesaid; shall incur and suffer the like Pains and Penalties as is before provided for refusing or neglecting to assist any Sheriff, Under-Sheriff or Constable in the Execution of his Office, as before mentioned.

Penalty for neglect or refusal.

And no Person or Persons so offending, unto whom such Justice is known, or shall declare himself so to be, shall be admitted to plead Excuse on Pretence of Ignorance of his Office.

C H A P. XII.

An Act for the better Preservation and Increase of Deer within this Province.

Preamble.

WHEREAS the killing of Deer at unseasonable Times of the Year hath been found very much to the Prejudice of this Province; great Numbers thereof having been hunted and destroyed in deep Snows, when they are very Poor, and big with Young, the Flesh and Skins of very little Value; and the Increase thereof greatly hindered:

No Deer to be killed betwixt December & August yearly on Penalty.

Be it therefore enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person or Persons whatsoever within this Province, from and after the last Day of *December*, in this present Year, One Thousand six Hundred ninety eight, till the first Day of *August*, One Thousand six Hundred ninety nine, and so from the last Day of *December*, to the first Day of *August* following annually for ever hereafter, shall any ways whatsoever, kill any Buck, Doe or

Cases in Equity.

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or Fawn; on pain that such Person or Persons so offending, shall forfeit the sum of *forty Shillings* for the first Offence, *three Pounds* for the second Offence, and *five Pounds* for the third Offence; and so for every Offence after: one Moiety thereof unto his Majesty. to be employed towards Support of the Government of this his Majesty's Province, and the other Moiety to him or them that shall inform and sue for the same in any Court of Record within the said Province.

And if any Person or Persons offending as aforesaid, shall not have wherewithal to pay his or their Fine or Fines, he or they shall for the first Offence work twenty Days, for the second thirty, and for the third Offence fifty Days; as shall be directed by the Justices, before whom the Cause shall be heard and determined; and the Wages and Earnings for his or their Work, to be employed to and for the Uses before-mentioned.

Persons unable to pay the Penalty. to satisfy by Work.

And if any Venison, Skin or Skins of any Buck, Doe or Fawn newly killed, shall, at any Time in any of the aforesaid Months wherein they are by this Act prohibited to be killed, be found with, or in Possession of any Person or Persons whatsoever, such Person or Persons shall be held and accounted in the Law to be guilty of killing Deer contrary to the Intent of this Act, as fully as if it were proved against such Person or Persons by sufficient Witnesses *viva voce*; except such Person or Persons do bring forth and make Proof who was the Person, or who were the Persons that sold or killed the same.

The Flesh or Skin of any Deer found to be sufficient Conviction, unless &c.

Provided always, and be it further enacted by the Authority aforesaid, That it shall and may be lawful for any Person or Persons whatsoever, who shall keep or breed any Deer tame, or in any Park or Island; at any Time to kill any Buck, Doe or Fawn so kept and bred. And that any Person or Persons whatsoever, shall have free Liberty of hunting as formerly to the Eastward of *Piscataqua River*; Any Thing in this Act to the contrary notwithstanding.

Tame Deer may be killed at any time.

C H A P. XIII.

An Act for Hearing and Determining of Cases in Equity.

WHEREAS the respective Courts of Justice within this Province are by Law impowred, where the Forfeiture of any penal Bond shall be found, in the entering up of Judgment in such Case, to Chancer the same unto the just Debt and Damages: The Practice whereof is found to give great Ease and Satisfaction unto His Majesty's Subjects; whereby Oppression, Delay, and great Costs and Charges are prevented, which otherwise would unavoidably arise. And Applications having been unto this Court, that further Provision may be made for Relief in Equity, in Cases not relievable by the Rules of the Common Law.

Preamble.

To the Intent therefore that Justice and Equity may be jointly administered;

Be it enacted by the Lieutenant Governor, Council and Representatives, in General Court assembled, and by the Authority of the same, That in all Cases brought or to be brought for Tryal in the Superiour Court of Judicature, or in the Inferiour Court of Common Pleas within the several Counties, where the Forfeiture or Penalty annexed unto any Articles, Agreement, Covenant, Contract, Charter-Party, or other Specialties, or Forfeiture of Estates on Condition, executed by Deed of Mortgage, or Bargain and Sale with Defeasance, shall be found by Verdict of Jury, or Confession of the Obligor, Mortgager or Vender; the Justices of the said Courts respectively where the Tryal is had, are hereby impowred and authorized, to moderate the Rigour of the Law; and on Consideration of such Cases according to Equity and good Conscience, to Chancer the Forfeiture, and enter up Judgment for the just Debt and Damages, and to award Execution accordingly: only in real Actions upon Mortgage or Bargain and Sale, with Defeasance, the Judgment to be conditional; that the Mortgager or Vender, or his Heirs, Executors or Administrators do pay unto the Plaintiff, such

Courts of Justice impowred to hance Penalties annexed to Specialties & Forfeiture of Estates granted on Condition. Additional Act, 8 & 9 G. 2. ca. 2.

Oath. See the next Law, ca. 14.

Cases in Equity.

such Sum as the Court shall determine to be justly due thereupon, within two Months Time after Judgment entred up for discharging of such Mortgage or Sale; or that the Plaintiff recover Possession of the Estate sued for, and Execution to be awarded for the same.

Provision for
Cases of like
Nature heard
and tried since
April 1685.

And be it further enacted by the Authority aforesaid, That in all Cases of like Nature heretofore heard and tried in any of the Courts of Justice within this Province since the Month of *April* in the Year of Our Lord God, One Thousand six Hundred eighty six, where the whole Forfeiture or Penalty of any Bond or Obligation, Conditioned for the Payment of Money, Performance of Articles, Covenants, Agreements, Charter-Parties, or other Specialties has been recovered and exacted; or where any Estate granted on Condition by Mortgage, or Bargain and Sale, with Defeasance hath been recovered, and the Mortgagee or Vendee by himself or Assigns hath entred into: or by any Ways or Means whatsoever obtained Possession thereof for Default of the Mortgager or Venders paying the Money, or otherwise performing what according to such Condition or Defeasance he ought to have done; the Party aggrieved and oppressed by such Exaction, or to whom the Right or Equity of Redemption of any such Estate does belong, may bring his Suit for Remedy and Relief therein, by filing a Bill, Plaint or Declaration, either in the Superiour Court of Judicature, or the Inferiour Court of Common Pleas at his Pleasure; and shall cause the adverse Party to be served with a Writ or Process out of such Court, fifteen Days before the Day of the sitting of the same; briefly notifying the Import of the said Bill, Plaint or Declaration, and requiring him to appear at the said Court, to make his Answer and Defence. And in Case of the Defendant's Non-appearance, or on Motion made to the Court, and reasonable Cause therefore shewn, the Court may continue such Suit unto the next Court, and no longer.

Provided, No such Suit shall be brought, after the tenth Day of *December*, which will be in the Year of Our Lord, One Thousand seven Hundred and one.

The Justices
of the several
Courts im-
powred to re-
ceive and
hear such
Cases, and to
grant Relief
in Equity.

And the Justices in the before mentioned Courts respectively are hereby impowred and authorized to receive and hear every such Case and Cases that shall be orderly brought before them, as aforesaid; and on Consideration of the several Pleas and Allegations made by either Party, to decree and enter up Judgment therein agreeable to Equity and good Conscience, and to award Execution accordingly. And where any Mortgagee or Vendee of any Houses or Lands granted on Condition hath recovered, or entred into, and taken Possession of the same for the Condition broken, the Mortgager or Vender, or his Heirs tendring Payment of the original Debt and Damages, or such Part thereof as was remaining unpaid, at the Time of Entry; with reasonable Costs and Allowance for any Disbursements afterwards laid out on such Housing or Lands for the Advancement and bettering of the same, over and above what the Rents, Profits or Improvements thereof made, shall amount unto, upon a just Computation thereof by the Court, as on hearing of the Parties shall be made to appear; The Mortgagee or Vendee, or his Heirs, or the present Tenant in Possession (being the Purchaser and holding in his own Right) shall be obliged to accept such Payment, and to restore and deliver Possession of the Estate unto the Mortgager or Vender, or his Heirs, and Seal, Execute and Acknowledge a good and sufficient Deed in the Law of Release and Quitclaim to the same. But in Case of his not appearing in Court, or refusal to accept such Payment tendred, the whole of the said Monies which the Court shall enter Judgment for, being left in Custody of the Court on Behalf, and for the Use of the Mortgagee or Vendee, his Heirs or Assigns: Judgment shall be entred up for the Mortgager or Vender, or his Heirs, to recover Possession of such Houses or Lands, and Execution be accordingly awarded.

Suit for Ré-
demption
where the
Mortgage is
in Possession,
to be brought
in 3 Years.
12 A. ca 1.

And further it is enacted, That at any Time hereafter where the Mortgagee or Vendee shall be in actual Possession of any Estate granted on Condition, it shall be in the Liberty of the Mortgager or Vender, or his Heirs, to bring his Suit in Manner as aforesaid, for Redemption thereof, within the space of three Years next after the Term therein expired, and not afterward.

Provided

Justices Oath. Sessions of the Peace.

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Provided always, That the Party aggrieved at any Judgment to be given as aforesaid, shall have the same Liberty of Appeal and Review as in other Cases is provided at the common Law.

C H A P. XIV.

An Act for Establishing the Form of an Oath to be administered unto the Justices of the Superiour Court of Judicature, and the Justices of the Inferiour Court of Common Pleas respectively.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Oath following shall be administered unto each of the Justices of the Superiour Court of Judicature; and also to each of the Justices of the respective Inferiour Courts of Common Pleas within this Province, by the Governour or Commander in Chief for the Time being of the same; or such as shall be by him thereto appointed. *That is to say:*

YOU Swear, *That well and truly you shall serve Our Sovereign Lord the King and his People in the Office of a Justice of the-----Court of-----* Justices of Courts Oath;
And that you will do equal Law and Execution of Right to all People, Poor and Rich, after the Laws and Usage of this Province: And in such Cases as the Law does especially provide to be relieved in Equity, there to proceed according to Equity and good Conscience, without having Regard to any Person.
 So help you GOD.

Which before recired Oath shall also be administered as aforesaid, unto the Justices that shall be appointed and commissioned for the respective Courts aforesaid, from Time to Time, before their entring upon the Execution of their Office.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* the thirty-first Day of *May*, 1699.

C H A P. I.

An Act for holding of Courts of General Sessions of the Peace, and ascertaining the Times and Places for the same.

BE it enacted and ordained by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there shall be held and kept in each respective County within this Province yearly, and in every Year at the Times and Places in this Act hereafter mentioned and expressed, *A Court of General Sessions of the Peace*, by the Justices of the Peace of the same County; or so many of them as are or shall be limited in the Commission of the Peace: Who are hereby impowered to here and determine all Matters relating to the Conservation of the Peace, and Punishment of Offenders, and whatsoever is by them Cognizable according to Law; and to give Judgment and award Execution therein.

And be it further enacted by the Authority aforesaid, That the Times and Places for the holding and keeping the said Courts of General Sessions of Peace within the respective Counties, shall be as followeth: *That is to say:*
 For the County of *Suffolk*; at *Boston*, on the first *Tuesdays* in *July*, *October*, *January*

General Sessions of the Peace, their Constitution and Power.

4 W. & M. ca. 5;
 7, 11, 13, & 20.
 5 W. & M. ca. 8.
 6 W. & M. ca. 2.
 9 W. ca. 1.
 10 W. ca. 8.
 1 A. ca. 3.
 11 A. ca. 1:
 12 G. ca. 3.
 1 G. 2 ca. 2.
 4 G. 2 ca. 1.
 15 G. 2 ca. 3:

Sessions of the Peace.

The Times
and Places for
holding a
Court of Ge-
neral Sessions
of the Peace,
in the several
Counties.

16 G. 2 ca. 4.
24 G. 2 ca. 3.
27 G. 2 ca. 5.
32 G. 2 ca. 1.

January, and April: For the County of *Essex* at *Salem*, on the last *Tuesdays* in *June*, and *December*; at *Newbury*, on the last *Tuesday* in *September*; and at *Ipswich*, on the last *Tuesday* in *March*: For the County of *Middlesex*; at *Cambridge*, on the second *Tuesday* in *September*, at *Charlstown* on the second *Tuesdays* in *December* and *March*, and at *Concord* on the second *Tuesday* in *June*: For the County of *Plymouth*; at *Plymouth*, on the third *Tuesdays* in *September*, *December* and *June*, and on the first *Tuesday* in *March*: For the County of *Barnstable*; at *Barnstable*, on the first *Tuesdays* in *July*, *October*, *January* and *April*: For the County of *Bristol*; at *Bristol*, on the second *Tuesdays* in *July*, *October*, *January* and *April*: For the County of *York*; at *Wells*, on the first *Tuesdays* in *July* and *October*, and at *York*, on the first *Tuesdays* in *January* and *April*: For the County of *Hampshire*; at *Springfield*, on the first *Tuesday* in *September*, and third *Tuesday* in *May*, and at *Northampton*, on the first *Tuesdays* in *December* and *March*: For *Dukes County*; at *Edgar-Town*, on the first *Tuesday* in *October*, and on the first *Tuesday* in *March*: And for the Island of *Nantuckett*; at the said Island, on the first *Tuesday* in *October*, and on the last *Tuesday* in *March*: Yearly and in every Year, from Time to Time.

Appeal to
the Court of
Assize.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful for any Person aggrieved at the Sentence of the Justices in any Court of General Sessions of the Peace, to make his Appeal from such Sentence (the Matter being originally heard and tried in the said Court) unto the next Court of Assize and General Goal Delivery to be held within or for the same County, there to be finally issued.

Appellant to
give Security
for Prosecu-
tion, &c.

Provided, That no Appeal shall be granted, unless it be claimed at the Time of declaring the Sentence, and the Appellant enter into Recognizance, with two sufficient Sureties within the space of two Hours next after, in a reasonable Sum for his personal Appearance at the Court appealed to, and Prosecution of his Appeal there with Effect; and to abide and perform the Order or Sentence of the said Court thereon, and to be of the good Behaviour in the mean Time.

See Resolve
at the end of
this Act.

And the Party appealing is to remain in Custody of an Officer, until he shall have given such Security. And the Officer not to be allowed above *twelve Pence* an Hour for his Time and Attendance.

Reasons of
Appeal to be
filed seven
Days before
the Sitting of
the Court ap-
pealed to.

Provided also, That every such Appellant do file the Reasons of his Appeal in the Clerk's Office of the Court appealed unto seven Days before the Day of the Sitting of the said Court; and also at his own Cost, do take out and present unto the Court, an attested Copy of the Sentence, and likewise attested Copies of all the Evidences upon which the same was grounded. And the Appellant shall pay the like Fee for the entering of his Appeal in the Court appealed to, as is by Law required, for entry of an Action in a Civil Cause, and the like Fee to the Jurors, that shall try the same.

Jurors how to
be chosen &
summoned.

And be it further enacted by the Authority aforesaid, That in convenient Time before the Sitting of the said Court of General Sessions of the Peace in each respective County, the Clerk of the Peace in such County shall issue out Warrants directed to the Constables of the several Towns within the same County, or the most principal of them; requiring them to assemble the Freeholders and other Inhabitants of their Town qualified as in and by his Majesty's Royal Charter is directed, to elect and chuse so many good and lawful Men of the said Town or Districts thereof alike qualified as aforesaid, as the Warrant shall direct; to serve as Jurors at such Court. And the Constable shall summon the Persons so chosen, to attend accordingly at the Time and Place appointed; and make timely Return of his Warrant unto the Clerk that granted the same; on pain that every Constable failing of his Duty therein, shall forfeit and pay unto the County-Treasurer for the Use of the County, a Fine not exceeding *five Pounds*, nor less than *forty Shillings*, at the Discretion of the Justices of such Court: unless such Constable so failing of his Duty as aforesaid, shall seasonably make a reasonable Excuse unto the Justices of the said Court, for his Default, and the same be allowed of by them.

Penalty on
Constables
neglecting to
make their
Return.

And

Inferiour Courts.

95

And if by reason of Challenge, or otherwise, there do not appear a sufficient Number of good and lawful Men to make up the Petty Jury or Juries, to serve at the said Court : Then and in such Case the said Jury or Juries, shall be filled up *De talibus circumstantibus*, to be returned by the Sheriff ; and where the Sheriff is concerned or related to either of the Parties in any Case, to be returned by the Coroner.

Sheriff to re-
turn Jurors,
in case there
fail of a suffi-
cient Number.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful for any Person sentenced for any criminal Offence, by one or more Justices of the Peace out of Sessions, to appeal from such Sentence unto the next Court of General Sessions of the Peace to be held within the same County. Every such Appellant recognizing with Sureties in a reasonable Sum not exceeding *five Pounds*, for his Appearance at the Court appealed to, and to prosecute his Appeal there with Effect, and to abide and perform the Order or Sentence of the said Court thereon, which is to be final ; and in the mean Time to be of the good Behaviour. And every such Appellant shall attend the same Rules and Method for bringing forward his Appeal at the said Court of General Sessions of the Peace, as before in this Act is provided in Case of Appeal from the said Court, to the Court of Assize and General Goal Delivery. And shall pay the like Fee for entring of his Appeal, as for the entring of a Civil Action in the Inferiour Court of Common Pleas ; and the like Fee to the Jurors as is paid them in the said Inferiour Court.

Appeal from
the Sentence
of one or
more Justices
of the Peace.

[*At a Great and General Court begun and held at Boston the 26th of May 1708. The following Resolve passed. viz. A Question being moved upon the third Section or Paragraph in the Act for holding of Courts of General Sessions of the Peace, &c. made and passed in the eleventh Year of King William the Third ; viz.*

Whether the Bond for the good Behaviour directed by the said Act to be given in Case of Appeal from the Sentence of the Justices, in any Court of General Sessions of the Peace, be demandable of any other, save of the Person prosecuted, convicted and sentenced for any Crime, and his Sureties ?

Resolved in the Negative : And that the Law is so to be understood and practiced accordingly : Any Usage or Custom to the contrary notwithstanding.]

C H A P. II.

An Act for the Establishing of Inferiour Courts of Common Pleas in the several Counties of this Province.

BE it enacted and ordained by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That there shall be held and kept in each respective County within this Province ; and at the Island of *Nantucket* within the same, yearly and every Year, at the Times and Places in this Act hereafter mentioned and expressed, *An Inferiour Court of Common Pleas*, by four substantial Persons, to be appointed and commissioned as Justices of the same Court in each County ; any three of whom to be a *Quorum*, for the holding of the said Court ; who shall have Cognizance of all civil Actions arising or hapning within such County, triable at the common Law, of what Nature, Kind or Quality soever : And are hereby impowred to give Judgment therein, and award Execution thereupon.

Inferiour
Court's Con-
stitution and
Power.

And be it further enacted by the Authority aforesaid, That the Times and Places for the holding and keeping the said Inferiour Court of Common Pleas within the several and respective Counties, shall be as followeth : *That is to say* : For the County of *Suffolk* ; at *Boston*, on the first *Tuesdays* in *July*, *October*, *January*, and *April* : For the County of *Essex* ; at *Salem*, on the last *Tuesdays*

Times and
Places for
holding them.

Altered as
those of the
General Sessi-
ons of the
Peace in the
preceding
A^d.

days in *June* and *December* ; at *Newbury*, on the last *Tuesday* in *September* ; and at *Ipswich*, on the last *Tuesday* in *March* : For the County of *Middlesex* : at *Cambridge*, on the second *Tuesday* in *September*, at *Carlston*, on the second *Tuesdays* in *December* and *March*, and at *Concord*, on the second *Tuesday* in *June* : For the County of *Plymouth* ; at *Plymouth*, on the third *Tuesdays* in *September*, *December* and *June*, and on the first *Tuesday* in *March* : For the County of *Barnstable* ; at *Barnstable*, on the first *Tuesdays* in *July*, *October*, *January* and *April* : For the County of *Bristol* ; at *Bristol*, on the second *Tuesdays* in *July*, *October*, *January* and *April* : For the County of *York* ; at *Wells*, on the first *Tuesdays* in *July* and *October*, and at *York*, on the first *Tuesdays* in *January* and *April* : For the County of *Hampshire* ; at *Springfield*, on the first *Tuesday* in *September*, and third *Tuesday* in *May*, and at *Northampton*, on the first *Tuesdays* in *December* and *March* : For *Dukes-County* ; at *Edgar-Town*, on the first *Tuesday* in *October*, and on the first *Tuesday* in *March* : and for the *Island of Nantucket* ; at the said *Island*, on the first *Tuesday* in *October*, and on the last *Tuesday* in *March*, yearly and in every Year, from Time to Time.

Writs to issue
out of the
Clerk's Office.

And be it further enacted by the Authority aforesaid, That all Processes and Writs for the bringing any Cause or Suit to Trial in any of the said Inferiour Courts, shall issue out of the Clerk's Office of such Court in His Majesty's Name, under the Seal of the said Court, to be signed by the Clerk, and directed to the Sheriff or Marshal of the County, his Under-Sheriff or Deputy. And if such Process or Writ be against the Sheriff or Marshal, to be directed to the Coroner of such County : who is hereby impowred to execute the same. And where the Sum sued for is under *Ten Pounds*, may be also directed to the Constables of the Town. And Writs as well original as judicial issuing out of the Clerk's Office of the said Court shall run into any County and Place within this Province ; and be there executed by the Officer or Officers of such County to whom they are directed. And all proper original Processes in the said Court, shall be Summons, Capias or Attachment, which shall be served and executed fourteen Days before the Day of the Sitting of the Court where such Writ or Process is returnable.

Coroner.
12 W. ca. 6.
3 G. ca. 8.
12 G. ca. 4.

To run thro'
the Province.
And to be
Summons,
Capias or
Attachment.

Proviso for
Actions under
40 s.

Provided, That no Action under the Value of *forty Shilings* shall be brought into any of the said Inferiour Courts, unless where Freehold is concerned ; or upon Appeal from a Justice of Peace.

Clerks to issue
out Warrants.

And be it further enacted by the Authority aforesaid, That in convenient Time before the Sitting of the said Inferiour Court in each respective County ; the Clerk of such Court shall issue out Warrants directed to the Constables of the several Towns within the same County, or the most principal of them : requiring them to assemble the Freeholders and other Inhabitants of their Town qualified as in and by His Majesty's Royal Charter is directed ; to elect and chuse so many good and lawful Men of the said Town or Districts thereof alike qualified as aforesaid, as the Warrant shall direct ; to serve as Jurors at such Court. And the Constable shall summon the Person so chosen, to attend accordingly at the Time and Place appointed ; and make timely Return of his Warrant unto the Clerk that granted the same ; on pain that every Constable failing of his Duty therein, shall forfeit and pay unto the County-Treasurer for the Use of the County a Fine not exceeding *five Pounds*, nor less than *forty Shillings*, at the Discretion of the Justices of such Court : Unless such Constable so failing of his Duty as aforesaid, shall seasonable make a reasonable Excuse unto the Justices of the said Court, for his Default, and the same be allowed of by them.

And if by Reason of Challenge, or otherwise, there do not appear a sufficient Number of good and lawful Men to make up the Petty Jury or Juries to serve at the said Court ; then and in such Case the said Jury or Juries shall be filled up *De talibus circumstantibus*, to be returned by the Sheriff ; and where the Sheriff is concerned, or related to either of the Parties in any Case, to be returned by the Coroner.

C H A P. III.

An Act for establishing a Superiour Court of Judicature, Court of Assize, and General Goal Delivery within this Province.

BE it enacted and ordained by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there shall be a Superiour Court of Judicature, Court of Assize, and General Goal Delivery over this whole Province, to be held and kept annually at the respective Times and Places in this Act hereafter mentioned and expressed, by one chief Justice, and four other Justices to be appointed and commissioned for the same; any three of whom to be a *Quorum*, who shall have Cognizance of all Pleas, real, personal or mixt, as well all Pleas of the Crown, and all Matters relating to the Conservation of the Peace, and Punishment of Offenders; as civil Causes or Actions between Party and Party; and between his Majesty and any of his Subjects, whether the same do concern the Realty and relate to any Right of Freehold and Inheritance; or whether the same do concern the Personalty and relate to Matter of Debt, Contract, Damage or personal Injury; and also all mixt Actions which concern both Realty and Personalty brought before them by Appeal, Review, Writ of Error, or otherwise as the Law directs. And generally of all other Matters as fully and amply to all Intents and Purposes whatsoever, as the Courts of King's Bench, Common Pleas and Exchequer within his Majesty's Kingdom of England, have or ought to have. And are hereby impowred to give Judgment therein, and award Execution thereupon.

And be it further enacted by the Authority aforesaid, That the Times and Places for the holding and keeping of the said Superiour Court of Judicature Court of Assize and General Delivery, shall be as followeth: *That is to say*: Within and for the County of *Suffolk*, at *Boston*, upon the first *Tuesdays* in *November* and *May*; within and for the County of *Essex*, at *Salem*, on the second *Tuesday* in *November*; and at *Ipswich*, on the third *Tuesday* in *May*: within and for the County of *Middlesex*, at *Cambridge*, on the last *Tuesday* in *July*; and at *Charlstown*, on the last *Tuesday* in *January*: within and for the County of *Hampshire*; at *Springfield*, on the second *Thursday* in *August*: within and for the County of *York*; at *Kittery*, on the *Thursday* in the Week next before the Time herein set and appointed for the Sitting of the said Superiour Court at *Ipswich*: for the Counties of *Plymouth*, *Barnstable*, and *Dukes County*; at *Plymouth*, on the last *Tuesday* in *March*: and within and for the County of *Bristol*; at *Bristol*, on the second *Tuesday* in *September* yearly, and in every Year, from Time to Time.

And be it further enacted by the Authority aforesaid, That there shall be held and kept a Superiour Court of Judicature, Court of Assize and General Goal Delivery, for the hearing and determining of any capital Offence or Offences that shall arise or happen within the Island of *Nantuckett*, at such Place within the same, and at such Time as the Governour and Council advising with the Justices of the said Court shall from Time to Time direct and appoint, according as Occasion may be.

Provided nevertheless, That the Trial of all Matters and Causes by Appeal from the Court of General Sessions of the Peace, or Inferiour Court of Common Pleas respectively within the said Island of *Nantuckett*, or by Writ of Error relating to any Judgment given in the said Inferiour Court; shall be in the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be held within the Counties of *Suffolk* or *Middlesex*.

And be it further enacted by the Authority aforesaid, That all Processes and Writs issuing out of the said Superiour Court of Judicature to be held within or for any County within this Province, shall be in his Majesty's Name, under the Seal of the said Court, and signed by the Clerk thereof, and shall be directed

Superiour Court of Judicature Court of Assize &c. their Constitution and Power.

6 *W. & M. ca. 2.*

7 *W. ca. 6.*

8 *W. ca. 3.*

6 *G. ca. 6.*

Times and Places for holding Superiour Courts.

1 *G. 2 ca. 11.*

16 *G. 2. ca. 4.*

21 *G. 2. ca. 2.*

24 *G. 2. ca. 3.*

27 *G. 2. ca. 5.*

20 *G. 2. ca. 3.*

Nantucket.

7 *G. ca. 8.*

12 *G. ca. 8.*

Process to be served fourteen Days before the Courts Sitting.

directed to the Sheriff, his Under Sheriff or Deputy, or other proper Officers, who are hereby impowred and required to observe and execute the same : And shall run into any County or Place within this Province, and be there executed by the Officer or Officers of such County or Place to whom they are directed. And all Processes for the Trial of civil Causes in the said Court upon Review or in other Cases which by Law may be originally there brought, shall be served and executed fourteen Days before the Day of the Sitting of the Court where such Writ or Process is returnable.

Jurors how
to be chosen.

Penalty on
Constables
not returning
their Warrants
for choice of
Jurors.

And be it further enacted by the Authority aforesaid, That in convenient Time before the Sitting of the said Superiour Court of Judicature, Court of Assize and General Goal Delivery in each respective County, the Clerk of the said Court shall issue out Warrants directed to the Constables of the several Towns within the County or Jurisdiction of the said Court, or the most principal of them ; requiring such Constables to assemble the Freeholders and other Inhabitants of their Town qualified as in and by his Majesty's Royal Charter is directed, to elect and chuse so many good and lawful Men of the said Town or Districts thereof, alike qualified, as aforesaid, as the Warrant shall direct, to serve as Jurors at the said Court : And the Constable shall Summon the Persons so chosen, to attend accordingly at the Time and Place appointed, and make timely Return of his Warrant unto the Clerk that granted the same ; on pain that every Constable failing of his Duty therein, shall forfeit and pay unto the County Treasurer for the Use of the County, a Fine not exceeding *Five Pounds*, nor less than *forty Shillings*, at the Discretion of the Justices of the said Court : Unless such Constable so failing of his Duty as aforesaid, shall seasonably make a reasonable Excuse unto the Justices of the said Court for his Default, and the same be allowed of by them,

Sheriff to re-
turn Jurors, in
Case there do
not appear a
sufficient
Number.

And if by Reason of Challenge, or otherwise, there do not appear a sufficient Number of good and lawful Men to make up the Petty Jury or Juries, to serve at the said Court : Then and in such Case the said Jury or Juries, shall be filled up *De talibus circumstantibus*, to be returned by the Sheriff ; and where the Sheriff is concerned or related to either of the Parties in any Case, to be returned by the Coroner.

C H A P. IV.

An Act in Addition to the Act for Regulating the Militia.

Preamble.

WHEREAS in and by the Act Intituled, An Act for regulating the Militia, among other Things therein contained : It is enacted, " That

5 W. & M. ca. 7.

" be by the Commission Officers of each Troop or Company, provided at the Charge of the respective Companies and Troops, where they are not already provided ; and the Fines will not reach to procure the same : " But no Direction being given by the said Law, how or in what Manner such Charge shall be raised and levied upon such Company or Troop :

Commission
Officers to
make Assess-
ment for
Drums Trum-
pets, &c.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often as the Fines arising in any military Company or Troop, shall not be sufficient to answer the Charge of providing suitable Drums, Trumpets, Colours and Banners ; and the Support of Drummers or Trumpeters : the Commission Officers of such Company or Troop respectively, are hereby authorized and impowred, to assess so much as shall be wanting and necessary for that Use and Occasion, upon their Company or Troop ; and to proportion the same in the most equal Manner they may, upon all the Persons entred in the Roll of such Company or Troop, and liable to attend any military Duty in the same ; having due Regard unto Persons Ability for Estate and other Circumstances. And where there be Sons and Servants, their Parents or Masters to pay for them, if they cannot do it themselves. And the Assessments so made, being signed by the Commission Officers, shall be committed unto the Clerk of such Company

Suppressing of Vagabonds.

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Company or Troop, together with a Warrant from the chief Officer of the same, requiring the said Clerk to collect and pay in the same unto himself, to be employed and disposed to the Use aforesaid : and to make Distress of all Persons that shall neglect or refuse to pay their Proportion thereof. And such Clerk is hereby impowred and required to execute such Warrant accordingly, and to pay in the said Monies unto his chief Officer. And if any fail in their Betrustment and Duty aforesaid, they shall be liable to give Account to their superiour Officers, from Time to Time.

C H A P. V.

An Act for the suppressing and punishing of Rogues, Vagabonds, common Beggars, and other lewd, idle and disorderly Persons : And also for setting the Poor to Work.

Whereas it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there shall be erected, built or otherwise provided in every County within this Province, at the Charge of such County ; a fit and convenient House or Houses of Correction (where such a House is not already provided) with convenient Accommodations thereunto adjoining and belonging ; to be used and employed for the keeping, correcting and setting to Work of Rogues, Vagabonds, common Beggars, and other lewd, idle and disorderly Persons. And until such House or Houses of Correction be erected, built or otherwise provided, the common Prison in each County may be made Use of for that Purpose.

House of
Correction to
be provided
in each
County.

4W.&M.ca.13

And be it further enacted by the Authority aforesaid, That the Justices of Peace in every County at the General Sessions of the Peace, to be holden for the same County, from Time to Time, may nominate and appoint at their Will and Pleasure, an honest fit Person to be the Master of such House of Correction : And it shall and may be lawful to and for the said Court, or any one Justice of the Peace out of Court, to send and commit unto the said House, to be kept and governed according to the Rules and Orders thereof, all Rogues, Vagabonds, and idle Persons, going about in any Town, or County, begging ; or Persons using any subtle Craft, Jugling or unlawful Games or Plays ; or feigning themselves to have Knowledge in Physiognomy, Palmestry ; or pretending that they can tell Distinies, or Fortunes, or discover where lost or stol'n Goods may be found ; common Pipers, Fiddlers, Runaways ; stubborn Servants or Children, common Drunkards, common Night Walkers, Pilferers, wanton and lascivious Persons, either in Speech or Behaviour ; common Railers, or Brawlers ; such as neglect their Callings, mispend what they earn, and do not provide for themselves, or the Support of their Families ; upon due Conviction of any of the Offences or Disorders aforesaid.

Justices in
their Sessions
to appoint a
Master of the
House of
Correction.

And be it further enacted by the Authority aforesaid, That the Master of such House of Correction to be appointed as aforesaid, shall have Power and Authority, and shall set all such Rogues, Vagabonds, Beggars, and other lewd, idle and disorderly Persons, as aforesaid, that shall be duly sent or committed unto his Custody, to Work and Labour (if they be able) for such Time as they shall continue and remain in the said House ; and to punish them by putting Fetters or Shackles upon them, and by moderate whipping, not exceeding ten Stripes at once ; which (unless the Warrant of Commitment shall otherwise direct) shall be inflicted at their first coming in, and from Time to Time ; in Case they be stubborn, disorderly or idle, and do not perform their Tasks, and that in good Condition, according as they shall be reasonably stinted : or to abridge them of their Food, as the Cause shall require, until they be reduced to better Order.

Rogues, Vagabonds, &c.
to be set to
Work.

And punished
by Whipping
&c.

And for the better support and governing of the said House of Correction ; and for employing of such Persons as shall be committed to the same :

House of Correction.

Justices in
their Sessions
to make Or-
ders for go-
verning the
House of
Correſtio.

How Persons
sent to the
House of
Correſtion
are to be
supported.

Be it further enacted by the Authority aforesaid, That the Justices of each County in their Court of General Sessions of the Peace, shall be, and hereby are authorized and impowered, to make necessary Rules and Orders from Time to Time, as they shall find Occasion; for the ruling, governing and punishing of such Persons so to be committed, agreeable to the Laws of this Province: And such Rules and Orders as shall be made in that Behalf by the Justices in their General Sessions, shall be of Force, and be duly performed and put in Execution.

And be it further enacted by the Authority aforesaid, That when any Person or Persons shall be committed to the said House of Correction, from any Town or Towns in this Province, the Select-Men of such Town to which the said Person or Persons belongs, shall take Care, and at the Cost and Charge of the said Town shall provide, as there shall be Occasion, suitable Materials; such as shall be necessary and convenient for the keeping such Person or Persons so committed, to Work, during his or their Abode there; and shall deliver the same to the Master or Keeper of the said House, to be improved for that End. And where any stubborn Children or Servants, that are under the immediate Care and Government of their Parents and Masters, shall be committed to the said House; the Parents or Masters of such Children or Servants (if able) shall take care to provide such Things as may be necessary for the keeping of them to Work and Labour, during their Abode in the said House. And no Person to be committed to the said House of Correction that is able to Work, shall in any Sort be chargeable to the County, for any Allowance; either at their bringing in, going forth, or during the Time of their Abode there: but shall only be allowed for their Labour and Work, the Sum of *eight Pence* out of every *Shilling* they shall earn; and the Over-plus of such their Earnings, to be unto the Master or Keeper of the said House, to Account for: And if such Persons are Masters or Heads of Families, then and in such Case, the whole Profit and Benefit of their Labour, or so much thereof as the Court of General Sessions of the Peace shall think necessary and direct, shall be for the Relief and Support of such Persons and their Families. And if any Person or Persons to be committed to the said House, shall be unable to Work, or be Weak or sick; then to be relieved by the Master or Keeper of such House; who shall be again reimbursed what he shall so necessarily expend for the Relief of such Person or Persons, by the Select-Men of such Town to which the said Person doth belong; and the Select-Men to assess the same upon the Inhabitants of such Town or Precinct: except the Person or Persons so committed to the said House, being unable to work or being weak or sick, were at the Time of his, her, or their Commitment, in their Minority, and under the Care of their Parents or Masters: Then and in every such Case, the Parents or Masters of such Person or Persons, shall reimburse what necessary Charges the Master or Keeper of the said House of Correction shall necessarily expend for their Relief.

Master of the
House of Cor-
rection, to be
paid for his
Care, &c.

And to keep
an Account of
the Earnings
of those com-
mitted to his
Custody.

And be it further enacted by the Authority aforesaid, That the Master or Keeper of the said House of Correction shall for his Care, Labour and Service, in looking after the Person or Persons that from Time to Time shall be committed to his Care and Custody; and also for relieving any Person or Persons that shall happen to be weak or sick in his Custody, have such reasonable Allowance and Satisfaction made him, by the Parents or Masters of such Person or Persons so committed, if under their immediate Care and Government; or otherwise by the Town to which said Person or Persons do belong, as the Justices at the Court of General Sessions of the Peace for such County shall direct and appoint; if the Earnings of such Person or Persons be not sufficient to discharge the same, over and above what is allowed them out of their Earnings for their Relief.

And the Master or Keeper of every such House, shall keep an exact Account of all Profits and Earnings that shall be made by the Labour of those under his Custody from Time to Time, and present the same (upon Oath if required) unto the Justices of the same County, at their General Sessions of the Peace; out of which Earnings, the said Master or Keeper of the said House shall have his Allowance:

House of Correction.

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lowance : and if any Overplus be, it shall be to the Town to which the said Person or Persons doth belong ; or to their Parents or Masters, according as the Circumstance of the Case may be. And the Master or Keeper of any such House of Correction that shall refuse to Account as, aforesaid ; or shall otherwise be negligent of his Duty required by this Act, shall be liable to such Fine or Punishment as by the Discretion of the Court of General Sessions of the Peace in such County shall be awarded.

And for the better employing and setting the Poor to Work :

Be it further enacted by the Authority aforesaid, That where there is a House already built in any Town, with Intent to be improved for a Work-House, to set their Poor on Work, or shall hereafter be built for that Purpose, and the Inhabitants of such Town shall grant a Tax or Assessment, for the raising of a Stock wherewith to provide necessary and suitable Materials, Tools and Implements, for employing and setting their Poor on Work at such House ; the Select-Men of the same Town for the Time being, shall proportion such Tax or Assessment upon the Inhabitants thereof, in the most just and equal Manner they may, according to the Rules and Methods for the Time being prescribed by Law for proportioning the Province Tax ; and shall grant Warrants for collecting the same, in like Manner as the Law directs for the gathering of other Town Rates or Assessments : And the Justices of Peace residing in any such Town, together with the Select-Men thereof, are hereby impowred and authorized, to nominate and appoint from Time to Time, three or more sufficient Persons of their Inhabitants, as a Master and Wardens ; to govern, inspect and take Care that all Persons of the same Town employed at the said Work-House, or sent thither by any two Justices of the Peace, *Quorum Unus*, to be kept to Work there ; be held and kept strictly to Work : And that all idle and disorderly Persons, and such as do not duly perform such reasonable Task or Stint as shall be set them, be punished by moderate whipping, or setting in the Stocks. And all Stock, Materials, Tools and Implements, to be raised and provided as aforesaid, shall be committed into the Hands of such Master and Wardens ; to be managed, used and employed, according to their Discretion, for the employing and setting to Work all such Persons as shall be under their Inspection and Government. And the said Master and Wardens, are also hereby impowred to demand, sue for, recover, accept, receive and take, any Gifts, Bequests and Donations, that are, or shall be made and given by any Person or Persons, to the Use of the Poor, for and towards a Stock for such Work-House ; and to employ and dispose the same accordingly : and shall once a Year, or oftner, from Time to Time, if required, render an Account upon Oath unto the Town, of their Management, Employment and Disposal, of all Monies or other Stock to be committed unto them ; or that by any other Ways or Means, as aforesaid, shall come to their Hands, and of the Profits and Incomes made thereof : and shall have such reasonable Allowance and Recompence made unto them for their Trouble, Pains and Service, in and about this Affair, as the Town shall agree and order. And all Stock to be raised, or otherwise obtained as aforesaid, with the Increase, Profits and Improvements, from Time to Time made thereof, shall be kept entire, and applied to, and for the Ends and Uses before-mentioned, and for answering of the necessary Charges arising on and about the Repairing and keeping of the said House, and the subsisting of those that shall be there employed ; and to no other Use whatsoever.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful, to and for any two Justices of the Peace (*Quorum Unus*) to send unto such Work-House, to be there employed and kept to Work, all Persons belonging to the same Town, being able of Body, that live idly or disorderly, mispend their Time ; or that go about begging, or receive Alms from the Town. And the Master of such House shall receive and keep them to Work accordingly.

Select-Men to proportion any Assessment, that may be granted by the Inhabitants of any Town ; for a Stock to set their Poor on Work.

Master and Wardens to be appointed for such Work-House.

Their Power.

All Stock to be kept entire for the said Works.

Two Justices may commit to the Work-House

13 W. ca. 19.

Common Goal. Watches.

C H A P. VI.

An Act appointing the Sheriff to have the keeping of the common Goal, and the Prisoners therein.

Sheriff to have the Custody of the Goal and Prisoners therein.

To give Security.

BE it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Sheriff of each severall County within this Province, have the Custody, Rule, Keeping and Charge of every of the King's common Goals, Prisons, and Prisoners in the same, in the County where he is Sheriff, during the Time of his Office; to be held and kept by himself or his lawful Deputy or Under-keeper, for whom the Sheriff shall be answerable. And every Sheriff shall give sufficient Security at the Discretion of the Court of General Sessions of the Peace in the same County, unto the King's Majesty, for the due and faithful Discharge and Performance of his Office in all the Parts thereof.

And for Encouragement unto the Sheriff to take and use all possible Care and Diligence for the safe keeping of the Prisoners that shall be committed to his Custody:

Salary.

Be it further enacted by the Authority aforesaid, That the Sheriff of every County shall have such Salary allowed him for the same, as the Justices of the Court of General Sessions of the Peace within the same County shall think fit and order, not exceeding *Thirty Pounds* per Annum for the County of *Suffolk*; and not exceeding *Ten Pounds* a piece in each of the other Counties within the Province; to be paid out of the Treasury of such County.

C H A P. VII.

An Act for keeping of Watches in Towns.

5 W. & M. ca. 7.

Justices and Select Men to appoint a Watch to be kept in Towns.

11 A. ca. 6.

To be warned by the Constable.

BE it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from Time to Time, when and so often as a military Watch shall

not be ordered and appointed to be kept, the Justices of Peace, together with the Select-Men of each Town within this Province; and in such Towns where no Justice of the Peace dwells, the Select-Men by themselves, are hereby impowred and authorized to direct and order a suitable Watch or Watches to be set up and kept nightly within such Town; from and after nine a Clock in the Evening, until Sun rising in the Morning, and the Place or Places where to set the same; and also a Ward to be kept every Lord's Day, and other Day, as they shall think to be needful; and to appoint the Numbers whereof such Watch and Ward shall consist, and the Time for the beginning and continuance of the same. And the Constable or Constables of the Town, having Orders accordingly given him or them in writing, by the Justices and Select-Men or the Select-Men only, in such Towns where no Justice of Peace dwells, are hereby impowred and required from Time to Time, to warn such Watch and Ward respectively, and to see that all Persons so warned by them do attend and observe their Duty in that Regard, and to take Care in the warning thereof, that such Watch or Ward do not consist of all or the greater Part Youths, but that some able Householders, or other sufficient Persons be joined with them. And the Constables are hereby enjoined to give in Charge to the Watch to see that all Disturbances and Disorders in the Night be prevented or suppressed, and to examine all Persons whom they shall see walking abroad in the Night after ten a Clock, of their Business abroad at such Season, and whither they are going; unless they be known, orderly and peaceful Persons; and in Case they give not reasonable Satisfaction therein, or are Persons of ill Behaviour, or justly suspected to have any unlawful Intention or Design, then to secure by Imprisonment or otherwise all such disorderly and suspicious Persons, to be safely kept until the Morning, and then to carry them before one of the next Justices of the Peace to be examined and proceeded against

Regulation of Townships.

103

against according to the Nature of their Offence as is by Law directed. And such Watchmen shall walk the Rounds in and about the principal inhabited Parts within such Town, to prevent any Danger by Fire, and to see that good Orders be kept, taking particular Observation and Inspection of all Houses and Families of evil Fame; and shall strictly observe the Charge to be given them as aforesaid.

Houses of ill
Fame to be
observed.

And be it further enacted by the Authority aforesaid, That all Male Persons in each Town respectively of the Age of sixteen Years or upwards, being able of Body, or having Estate sufficient to hire, shall be liable to Watch and Ward either in their own Persons, or by some other sufficient Person or Persons in their Room, when duly warned to attend the same: Except the Members of the Council, Justices of the Peace, Members of the Assembly for the Time being, the President, Fellows and Students at the College, Ministers, Grammar School-Masters, the Sheriff of each County, the chief Commission Officer of each military Company and Troop for the Time being, the Officers of the Governor's Troop of Guards; and Persons living two Miles from the Place where the Guard is kept.

Persons liable
to watch.

Exception.

And be it further enacted by the Authority aforesaid, That if any Persons liable to Watch or Ward as aforesaid, being duly warned by the Constable, or other Person by his Appointment, shall refuse or neglect to appear, and attend their Duty in that Regard, either by themselves, or some other sufficient Persons in their Stead, and be thereof convicted before a Justice of the Peace, either by the Oath of such Constable, or other sufficient Testimony upon Oath, without a just and reasonable Excuse to be made and given for the same: Every Person so offending, shall forfeit and pay to the Use of the Poor in such Town, the Sum of *five Shillings*; and have the said Sum with the Charges of Prosecution levied by Distress and Sale of his or her Goods or Chattels, or otherwise be committed to Prison until the same be paid. And the Constables of each Town are required from Time to Time to observe and perform the Orders that shall be given them as aforesaid; on pain of being fined to the Use of the Poor within such Town, not exceeding *forty Shillings*.

Penalty for
not giving
their Atten-
dance when
warned.

Provided nevertheless, and be it further enacted by the Authority aforesaid, That in any Town where the Members of the Council, and the Justices of the Peace within such Town, together with the Select-men thereof, or the Select-men by themselves, where no Member of the Council nor Justice dwells, shall judge that a Watch may be kept in such Town more for the Benefit and Safety thereof in other Manner than is herein before directed, the Inhabitants also agreeing to support the Charge thereof: The Justices in the Court of General Sessions of the Peace within the County where such Town doth lie, upon Application to them made in that Behalf, are hereby impowered and authorized to direct and order the Rule for apportioning and levying of such Sum upon the Inhabitants and Residents in such Town, as shall be granted by the Town for that Purpose, in such Manner as they shall judge most equal and reasonable, by Poll, Estate or both, to be applied accordingly.

Provision for
keeping a
Watch in a
nother Form
where it may
be judged
better.

C H A P. VIII.

An Act in Addition to the Act for Regulating of Townships, &c.

23 E it enacted by His Excellency the Governour, Council and Representatives, in General Court assembled; and by the Authority of the same, That the Freeholders and other Inhabitants of each Town duly qualified to vote in Town Affairs, at the Time of their annual Meeting, for the choice of Town Officers, shall choose a suitable Person to be Treasurer for such Town; who shall be sworn before a Justice of the Peace, to the true and faithful Discharge of his Trust; who is hereby impowered to administer the said Oath. And such Treasurer shall, and hereby is impowered to

4W&M.ca.13.

Town Treas-
urer to be
annually cho-
sen.

Militia to be in a Readiness.

His Power. demand and receive all Debts, Rents and Dues belonging or owing to such Town, or the Poor thereof; and to sue for and recover the same by due Process in the Law; and shall pay out such Monies, according to Order from the Select-Men, or Overseers of the Poor; pursuant to such Instructions as they shall receive from the Town: And every such Treasurer shall annually make and render a true Account to the Town of all his Receipts and Payments: And shall have such Allowance for his Service, as shall be agreed and ordered by the Town.

To Accompt.

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* the thirty-first Day of *May*, 1699. And continued by several Prorogations until Wednesday the thirteenth of *March* following, and then Sat.

C H A P. I.

An Act for putting the Militia of this Province into a Readiness for Defence of the same.

Preamble. *W*HEREAS by the Law of this Province, it is already provided,
 “ That in Case of Alarms made either from a Sea-Port Town, or other
 “ Town, lying Frontier to, or in Danger of an Enemy; the Captain or
 “ Captains of the adjacent Towns shall forthwith go or send such Relief
 “ as they shall judge meet for the Offence of the Enemy, and Defence of them-
 “ selves, &c.” But for as much as the Occasion may be such and so sudden, as it
 may be necessary to call together, Arm, Array, and put into a Posture for War the whole Militia and Forces of one or more Regiments, for the Defence of the Province, and his Majesty's Subjects therein, in Case of Invasion or near Approach of an Enemy, before the Notices thereof can reach the Captain General or Commander in Chief, to have Directions or Orders from him for the same:

**Military Commission Officers impow-
 ered, by Force of Arms to encounter any hostile Enterprize.**

Be it therefore enacted and declared by his Excellency the Governour, by and with the Advice and Consent of the Council and Representatives in General Court assembled, and by the Authority of the same, That all Persons commissioned by the Captain General or Commander in Chief of this Province, for the Time being, to bear Office in any military Company or Troop within the same, be, and hereby are impowered and authorized by virtue of such Commission, when and as Occasion shall require, in the Cases and to the Intents and Purposes aforesaid, to Arm, Array and Weapon the Company or Troop respectively under their Command, or Part of them; and by Force of Arms, to encounter, repel, pursue, kill and destroy any that shall appear in hostile Manner to attempt or enterprize the Destruction, Invasion, Detriment or Annoyance of any of his Majesty's Subjects, Forts, Garrisons, Towns or Plantations within this Province. And that such Officer or Officers so taking to Arms, shall forthwith dispatch Notice to his or their superiour Officer of his or their Motion and the Occasion thereof, and observe such Commands and Orders as he or they shall receive from him.

Colonel or chief Officer of any Regiment, his Power.

And be it further enacted by the Authority aforesaid, That the Colonel or chief Officer of each Regiment be, and hereby is impowered and authorized, as Occasion shall require, in any of the Cases, and to the Intents before-mentioned from Time to Time, to assemble in martial Array, and put into warlike Posture the whole Militia of the Regiment under his Command, or such Part of them as he shall think needful, upon any Alarm, Invasion, or Notice of the Appearance of an Enemy by Sea or Land: And the Regiment, Companies or Troops so armed, arrayed, and put into warlike Posture, or Part of them, to lead, conduct and employ;

Deserters.

employ ; or to appoint some other fit Person by writing under his Hand to lead, conduct and employ them as well within the Regiment and County whereto they belong, as into any other adjacent County or Place within this Province, for the assisting, succouring and relieving any of his Majesty's Subjects, Forts, Garrisons, Towns or Places, that shall be assaulted by an Enemy, or in Danger thereof ; and with such Party, Companies or Troops, by Force of Arms, to encounter, repel, pursue, kill and destroy such Enemy, or any of them, by all fitting Ways, Enterprises and Means whatsoever. And the Colonel or chief Officer of such Regiment so taking to Arms, or sending forth any Party of Men, shall forthwith Post away the Intelligence and Occasion thereof unto the Captain General or the Commander in Chief for the Time being ; and shall attend and observe such Directions and Orders as he shall receive from him. And in Case it happen the Colonel or chief Officer of any Regiment be out of the Limits or Precincts of the Regiment, for which he is or shall be commissioned, at the Time of any Invasion, Attack or Appearance of an Enemy ; or Alarm given from any of the neighbouring Towns or Regiments ; the next Commission Officer then within the Regiment, shall have, use and exercise the same Powers and Authorities herein before granted, until the return of the Colonel, or other superiour Officer. And such Officer so acting shall Post away the Intelligence thereof, with the Occasion for the same, as aforesaid, unto the Captain General, or the Commander in Chief for the Time being ; and shall attend and observe such Directions and Orders as he shall receive, from the Captain General or Commander in Chief therein.

To Post away Intelligence to the Captain General, &c.

The like Power given to the next Commission Officer, in Case of the Absence of the chief Officer.

And for the better preventing of false Alarms by disorderly shooting off Guns in the Night :

Be it further enacted by the Authority aforesaid, That no Person or Persons whatsoever in any Town or Garrison, shall during the Time of War or of keeping a military Watch in such Town or Garrison, presume to discharge or shoot off any Gun or Guns after the Sun's setting, or before the Sun's rising ; unless in Case of Alarm, approach of an Enemy, or other necessary Defence : on pain that every Person so offending, and being thereof convicted before one or more of his Majesty's Justices of the Peace, shall forfeit and pay the Sum of *twenty Shillings* for each Gun so discharged ; one Moiety thereof to and for the Use of the Poor of the Town where the Offence shall be committed, and the other Moiety to him or them that shall inform or prosecute for the same. And if such Offender shall not have wherewith to answer the said Fine ; or shall refuse or neglect to pay the same, then he shall be set in the Stocks, not exceeding two Hours Time.

Penalty for shooting off Guns after Sun set, and before Sun rising.

And in Case any Person so offending be belonging to any Garrison or Forces in actual Service, and borne in his Majesty's Pay, he shall be punished at the Discretion of a Court martial ; or the Commission Officers of the Garrison, Company, or Troop whereto he belongs, by putting into the Bilboes, laying Neck and Heels, or riding of the wooden Horse.

C H A P. II.

An Act against Deserters.

FOR the better preventing of Soldiers or Mariners Departure from their Captains or Commanders without Leave, or deserting his Majesty's Service : Preamble:

Be it enacted and declared by his Excellency the Governour, by and with the Advice and Consent of the Council and Representatives, in General Court assembled, and by the Authority of the same, That no Soldier or Mariner retained in his Majesty's Service, and borne in his Majesty's Pay in Garrison, or elsewhere, by Sea or Land, shall depart without Licence of his Commander, and desert his Majesty's Service ; on pain of being proceeded against as a Felon ; and shall suffer the Pains of Death, or some other grievous Punishment, at the Discretion of the Court before whom the Trial shall be.

Penalty for deserting his Majesty's Service.

Buildings in the Town of Boston.

How Desert-
ers shall be
tried.

And every Justice of the Peace within his Precinct, is hereby authorized and required to cause all such Deserters or Run-away Soldiers or Mariners, which he shall know or be informed of, to be apprehended and secured, in order to a Trial at the next Assizes to be holden for the same County where they shall be taken ; or at the Court of Oyer and Terminer by Commissioners to be specially appointed and impowred for that Purpose.

C H A P. III.

An Act in Addition to the Act for building with Stone or Brick in the Town of *Boston*, and preventing Fire.

4 W. & M. ca. 1.

Preamble.

FOR AS MUCH as notwithstanding the good and wholesome Provision made and established by the said Act Intituled An Act for building with Stone or Brick in the Town of *Boston*, and preventing Fire, pass'd in the fourth Year of the Reign of his present Majesty, and of the late Queen MARY, his Royal Consort, of happy Memory ; divers Persons the Penalty in the said Act not regarding, have been so hardy as to erect and build Houses, Tenements, and Edifices of Timber, contrary to the expresse Prohibition, true Intent and Meaning of the said Law. And for as much as the demolishing of such Houses and Buildings (being now finished) and proceeding according to the Directions of the said Law, would probably be thought over great Severity : Yet that such bold and open Contempt may not pass wholly unpunished ; and to the Intent that others may be deterred from doing the like for the future :

Penalty on
such as have
built with
Timber con-
trary to Law.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Court of General Sessions of the Peace within the County of *Suffolk*, be and is hereby impowred and required to take effectual Order for the enquiring after and conventing before them, all Persons that have so transgressed as aforesaid, in having presumed to erect, or that have caused to be erected, and set up within the Town of *Boston* aforesaid, any House, Edifice or Building of Timber ; or of Brick or Stone, and not covered the same with Slate or Tyle, contrary to the afore-recited Act, and the true Intent and Meaning thereof ; not having had and obtained Licence from the Governour and Council, for his or their so doing : or that have not observed and performed the Terms or Conditions of such Licence ; and upon due Conviction of any such Offence, to fine every such Person and Persons, at the Discretion of the said Court, according to the Circumstances aggravating the Offence, with Respect to the Place where such House or Building is erected, or otherwise ; not exceeding the Sum of *Fifty Pounds*, for one Offence, which shall excuse them from any further Penalty of the Law. All such Fines to be applied towards the raising of a Stock for setting of the Poor on Work within the said Town, at the Work-House, for that Purpose appointed or to be appointed.

Fines how to
be applied.

Grand Jury
to inquire and
present such
Transgressi-
ons.

And the Grand Jury for the said County from Time to Time, are required diligently to inquire after, and to present unto the Court all Transgressions of the Law in that Kind, which shall come to their Knowledge.

And in as much as it may be of no apparent Hazard unto the said Town, and for the Ease and Benefit of divers Inhabitants and Proprietors within the same, that in some Parts of the said Town of *Boston*, Timber Buildings should be permitted and allowed to be erected :

Governour
and Council
may grant
Licence to
build with
Timber.

Be it enacted by the Authority aforesaid, That the Justices of Peace, and the Select-Men of the said Town of *Boston*, or the major Part of each, certifying their Approbation thereof, the Governour and Council may grant Licence for the setting up of Timber Houses and Buildings ; with and under such Conditions, Limitations and Restrictions for the enclosing and covering thereof as they shall think fit : Any Law, Usage or Custom to the contrary in any wise notwithstanding.

Jesuits and Popish Priests.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* : Begun and held at *Boston*, on Wednesday the twenty-ninth Day of *May*, 1700.

C H A P. IV.

An Act against Jesuits and Popish Priests.

WHEREAS divers Jesuits, Priests and popish Missionaries have of late come, and for some Time have had their Residence in the remote Parts of this Province, and other His Majesty's Territories near adjacent ; who by their subtle Insinuations, industriously labour to debauch, seduce and withdraw the Indians from their due Obedience unto His Majesty ; and to excite and stir them up to Sedition, Rebellion and open Hostility against His Majesty's Government : Preamble.

For Prevention whereof :

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and it is enacted by the Authority of the same, That all and every Jesuit, seminary Priest, Missionary, or other spiritual or ecclesiastical Person made or ordained by any Authority, Power of Jurisdiction derived, challenged or pretended from the Pope or See of *Rome*, now residing within this Province, or any Part thereof ; shall depart from and out of the same, at or before the tenth Day of *September* next, in this present Year, One Thousand and seven Hundred. Jesuits, Priests, &c. to depart the Province by the tenth of September.

And be it further enacted by the Authority aforesaid, That all and every Jesuit, seminary Priest, Missionary, or other spiritual or ecclesiastical Person, made or ordained by any Authority, Power or Jurisdiction, derived, challenged or pretended from the Pope or See of *Rome* ; or that shall profess himself, or otherwise appear to be such by practising and teaching of others to say any popish Prayers, by celebrating Masses, granting of Absolutions ; or using any other of the Romish Ceremonies and Rites of Worship, by or of what Name, Title or Degree soever such Person shall be called or known ; who shall continue, abide, remain, or come into this Province, or any Part thereof, after the tenth Day of *September* aforesaid ; shall be deemed and accounted an Incendiary, and Disturber of the publick Peace and Safety, and an Enemy to the true Christian Religion, and shall be adjudged to suffer perpetual Imprisonment : And if any Person being so sentenced and actually imprisoned, shall break Prison and make his Escape, and be afterwards re-taken, he shall be punished with Death. Penalty on Jesuits or Priests, &c. that shall remain or come into this Province after the 10th of September, 1700.

And further it is enacted, That every Person who shall wittingly and willingly, receive, relieve, harbour, conceal, aid or succour, any Jesuit, Priest, Missionary, or other ecclesiastical Person of the Romish Clergy, knowing him to be such, shall be fined *two Hundred Pounds* ; one Moiety thereof to be unto His Majesty, for and towards the Support of the Government of this Province, and the other Moiety to the Informer ; and such Person shall be further punished by being set in the Pillory on three several Days, and also be bound to the good Behaviour, at the Discretion of the Court, Penalty for receiving or harbouring any Jesuit or Priest.

And be it also enacted, That every Offence to be committed or done against the Tenor of this Act, shall and may be inquired of, heard and determined in the Court of Assize and General Goal Delivery, or before Commissioners of Oyer and Terminer and Goal Delivery, specially to be appointed to sit either within the County where the Offence is committed, or where the Offender is apprehended or taken ; or in any other County within the Province : Any Law, Usage or Custom to the contrary notwithstanding. How Offences against this Act, shall be inquired of and determined.

And

Justices of the Peace to apprehend Persons suspected to be Jesuits or Priests.

Any Person without a Warrant may apprehend any Jesuit or Priest.

Reward.

Saving for any of the Romish Clergy that shall be Shipwreck'd, &c.

And further be it enacted by the Authority aforesaid, That it shall and may be lawful to and for every Justice of the Peace, to cause any Person or Persons suspected of being a Jesuit, seminary Priest, or of the Romish Clergy, to be apprehended and conveyed before himself, or some other of His Majesty's Justices. And if such Person do not give a satisfactory Account of himself, he shall be committed to Prison, in order to a Trial.

Also it shall and may be lawful to and for any Person or Persons to apprehend without a Warrant, any Jesuit, seminary Priest, or other of the Romish Clergy as aforesaid, and to convey him before the Governour, or any two of the Council, to be examined and imprisoned, in order to a Trial; unless he give a satisfactory Account of himself.

And as it will be esteemed and accepted as a good Service done for the King, by the Person who shall seize and apprehend any Jesuit, Priest, Missionary, or Romish Ecclesiastic as aforesaid; so the Governour with the Advice and Consent of the Council, may suitably reward him as they shall think fit.

Provided, This Act shall not extend or be construed to extend unto any of the Romish Clergy which shall happen to be Shipwreck'd; or through other Adversity shall be cast on Shoar, or driven into this Province; so as he continue or abide no longer within the same than until he may have Opportunity of Passage for his Departure; so also as such Person immediately upon his arrival shall forthwith attend the Governour, if near to the Place of his Residence, or otherwise on one or more of the Council, or next Justices of the Peace, and acquaint them with his Circumstances, and observe the Directions which they shall give him, during his stay in the Province.

C H A P. V.

An Act for the Regulating of Prisoners, and to prevent Escapes.

Prison Keepers to return a List of their Prisoners.

BE it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and it is enacted by the Authority of the same, That every Goaler or Keeper of the King's Prisons within the several Counties in this Province, at the opening of the Court of Assize and General Goal Delivery, Court of Oyer and Terminer; and Court of General Sessions of the Peace, respectively to be holden within such County from Time to Time, shall return a List and certify unto such Court the Names of all Prisoners then in his Custody, with the Cause of their Commitment: And also the Names of all other Prisoners that shall be committed unto him during the sitting of any such Court; whereby the Justices of the said Courts respectively may take Cognizance thereof: and as well for the King as for the Parties, may proceed to make Deliverance of such Prisoners according to Law, for the Crimes proper to the Jurisdiction of such Court; on Pain that every Goaler or Prison-Keeper for each Default by him made in that Respect, shall forfeit such Sum as shall be set upon him by the Justices of the Court, not exceeding *ten Pounds*.

Prison Breach or Flight to be accounted one Evidence.

Be it further enacted by the Authority aforesaid, That whosoever breaketh Prison, or shall make his escape from an Officer, after his being arrested or imprisoned for any Crime, his Breach of Prison or Flight, shall be accounted and esteemed in the Law one Evidence to convict him of the Crime wherewith he stands charged in the Warrant for his Apprehension or Commitment.

Penalty on Persons that shall convey any Instrument or Tool into the Prison.

And if any Person whatsoever, shall directly or indirectly by any Ways or Means howsoever convey any Instrument, Tool or other Thing whatsoever, to any Prisoner, or into the Prison, whereby such Prisoner or any other Prisoner either may or might break Prison, or work him or her self unlawfully out of the same; every Person so offending, and being thereof convicted, shall forfeit and pay such Fine, as by the Discretion of the Court shall be imposed and set upon such

such Offender, according to the Nature of the Cause of the Prisoners Commitment, not exceeding *Twenty Pounds*; or suffer corporal Punishment by whipping not exceeding twenty Stripes.

And if it happen any Prisoner or Prisoners do make his or their Escape by Means of any Instrument, Tool or other Thing conveyed as aforesaid, the Person or Persons conveying the same, shall be fined, not exceeding *Five Hundred Pounds*; or be corporally punished by Whipping, not exceeding thirty nine Stripes, and find Sureties for the good Behaviour, during the space of one Year, at the Discretion of the Court, according to the Nature of the Crime or Crimes wherewith the Prisoner or Prisoners stood charged in their Mittimus's, or Warrants of Commitment, and other Circumstances aggravating the Offence. And if any Prisoner or Prisoners so escaping, shall stand convict of any capital Crime, the Person or Persons assisting or furthering their Escape as aforesaid, over and above their being fined or corporally punished as before is directed, and bound to the Behaviour; shall also be stigmatized or burned in the Forehead or on the Check, with a hot Iron of the Figure of the Letter B.

And further it is enacted by the Authority aforesaid, That if the Prisoner or Prisoners so escaping were imprisoned for Debt, the Person or Persons assisting and furthering their Escape as aforesaid, shall be liable to pay the full Debt owing to the Creditor or Creditors, at whose Suit such Prisoner or Prisoners stood committed; to be recovered by Action or Actions, upon the Case therefore to be brought against the Person or Persons, so offending as aforesaid, who shall also be fined or corporally punished as aforesaid, at the Discretion of the Court, not exceeding the Fine or Punishment before-mentioned.

And be it further enacted, That every Goaler or Prison-Keeper that shall voluntarily suffer any Prisoner or Prisoners committed to his Custody to escape, upon the Conviction thereof, shall undergo and suffer the like Pains and Penalties as the Prisoner or Prisoners so escaping should by Law for the Crime or Crimes wherewith he or they stood charged by the Warrant or Warrants of Commitment, if the Prisoner or Prisoners had thereof been convict.

Provided, That if any Person assisting and furthering the escape of any Prisoner in Manner as aforesaid, or if the Keeper of the Prison that shall voluntarily suffer to escape as aforesaid, shall by any Ways or Means recover any Prisoner or Prisoners so escaping, and return them back to Prison again before Prosecution had, and Judgment entred up against such Person or Prison-Keeper for such Escape, (which shall not be until six Months past next after the Escape) in such Case the Person or Prison-Keeper so offending shall be liable to no further Punishment than to pay such Fine as the Court that shall have Cognizance thereof, in their Discretion shall think fit to set upon him, according as the Offence may be aggravated by the Circumstances attending the same, and the Degree of the Crime wherewith the Prisoner stands charged.

And in Case the Escape of any Prisoner happen through the Negligence of the Goaler or Prison-Keeper, he shall pay such Fine as the Justices of the Court in their Discretion before whom the Prosecution shall be, shall impose and set upon him according to the Nature or Degree of the Offence, for which the Prisoner escaping was taken and imprisoned. And if the Prisoner so escaping were imprisoned for Debt, the Prison-Keeper shall be answerable to the Creditor for the full Debt, and he shall have his Remedy against the Prisoner.

All Fines and Forfeitures arising by Virtue of this Act, shall be applied to and for the repairing, maintaining and upholding of the Prison within the County where the Offence shall be committed; and be paid in to the County Treasurer to be employed accordingly, and not otherwise.

And be it further enacted by the Authority aforesaid, That where the escape of any Prisoner or Prisoners for Debt shall happen through the Defect or Insufficiency of any Prison, from and after the twenty fifth Day of *March* next, in the Year one Thousand seven Hundred and one, the County shall make good such Debt as the Prisoners so escaping did justly owe unto the Creditor or Creditors, at whose Suit he was imprisoned, and the County shall have their Remedy against the Prisoner.

And

Further Penalty in case any Prisoner by Means of such Instrument &c. do escape.

Escape of Prisoners for Debt.

Penalty on the Goaler for a voluntary Escape.

11 W. ca. 7.

Proviso.

For a negligent Escape.

Fines and Forfeitures how to be applied

Escape of Debtors thro' Defect of the Prisons to be answered by the County.

Prisons to be
erected in
each Shire or
County Town.

And further it is enacted, That there be sufficient Prisons forthwith provided within the severall Counties, and from Time to Time kept so. And that the said Prisons be erected and maintained in the Shire, or County Town of each County respective'y, and in such other Towns as the Court of General Sessions shall see needful. And the Court of General Sessions of the Peace holden in the severall Counties, are to give effectual Order thereabout: Any Law, Custom or Usage to the contrary notwithstanding.

C H A P. VI.

An Act relating unto the Office and Duty of a Coroner.

Coroners to
take Inquests
on dead Bo-
dies.

W H E R E B Y it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Coroner within the County for which he is appointed, shall be, and hereby is impowered to take Inquests of Felonies, and other violent and casual Deaths committed, or hapning within his Precinct. And before he undertake the Execution of his said Office, shall take the following Oath

To be Sworn.

for his due and faithful Performance thereof, before the Governour, Lieutenant Governour, or any two or more of the Council; or such other Person or Persons as shall be thereto appointed by the Governour:

That is to say:

Coroners
Oath.

Y O U Swear, That well and truly you shall serve Our Sovereign Lord the King in the Office of a Coroner, and as One of His Majesty's Coroners of the County of S. And therein you shall truly and diligently do and accomplish all and every Thing and Things appertaining to your Office, after the best of your Cunning, Wit and Power, for the Profit and Good of the Inhabitants within the said the County; taking such Fees as you ought to take by Law, and not otherwise.

So help you God.

Coroner to
make out
Warrants for
Jurors.

And be it further enacted by the Authority aforesaid That when and so soon as any Coroner shall be certified of the dead Body of any Person supposed to have come to a violent and untimely Death, found or lying within his County or Precinct; he shall make out his Warrant directed unto the Constables of the same Town where such dead Body lies, or of three or four of the next adjacent Towns, (if need be) requiring them forthwith to Summon a Jury of good and lawful Men of the same Town, or such Number as shall be sufficient, with those sent for from the neighbouring Towns to make up eighteen in all, to appear before him at the Time and Place in the said Warrant express'd, which Warrant shall be made in this Form, viz.

Form of the
Warrant.

Suffolk ss. To the Constables of B. or to any or either of them. Greeting.

T H E S E are in His Majesty's Name to require you immediately upon the Receipt and Sight hereof, to summon and warn good and lawful Men of the said Town, to be and appear before me, one of the Coroners of the said County of S. at ^{House or Place} within the said Town of B. betwixt the Hours of ^{and} of the Clock in the noon of this present Day of ^{then and there to inquire upon the View of the} Body of a certain Person there lying dead, how and in what Manner he came to his Death: Fail not herein at your Peril, as you will answer the contrary. Given under my Hand and Seal at B. the Day of In the Year of Our Lord And in the Year of His Majesty's Reign.

By me W. G. one of the
Coroners of the County aforesaid.

Constables to
execute the
Coroners
Warrant.

And every Constable unto whom any such Warrant shall come, shall forthwith execute the same, and repair unto the Place at the Time therein mentioned, and make Return of the Warrant, with his Doings therein, unto the Coroner that granted the same.

And

Coroners.

III

And every Constable failing of performing his Duty by such Warrant required of him, or returning the same as aforesaid, shall forfeit the Sum of *forty Shillings*. Penalty for Default.

Also every Person summoned and warned to be a Juror, failing to appear accordingly, shall also forfeit the Sum of *forty Shillings*; without a reasonable Excuse for the same be made unto, and allowed of by the Coroner. The aforesaid several Fines or Forfeitures to be to and for the defraying of the Charges arising and hapning within the same County; and towards the defraying the necessary Charges of the Coroner and Jurors: To be recovered by Action, Bill, Plaint or Information therefore to be brought by the Coroner in any of his Majesty's Courts of Record. Penalty for Jurors Default.

And the Coroner shall swear fourteen, or more of the Jurors that appear; and give the Foreman (to be by him appointed) his Oath upon View of the Body, in this Form. *That is to say:*

YOU shall diligently inquire, and true Presentment make, on the Behalf of our Sovereign Lord the King; how and in what Manner A. B. here lying dead, came to his Death: And you shall deliver up to me his Majesty's Coroner, a true Verdict thereof, according to such Evidence as shall be given to you, and according to your Knowledge. Jurors Oath.
So help you God.

And then shall swear the rest of the Jurors, by three or four at once in this Form, viz.

ALL such Oath as L. M. the Foreman of this Inquest for his Part hath taken, you and every one of you, shall well and truly observe and keep on your Parts. Coroners Charge to the Jurors.
So help you God.

The Jury being sworn, the Coroner shall give them a Charge upon their Oaths, to declare of the Death of the Person; Whether he died of Felony, or by Mischance and Accident? And if of Felony, Whether of his own or of another's? And if by Mischance or Misfortune, Whether by the Act of God; or of Man? And if he died of another's Felony, Who were Principals, and who Accessaries? Who threatned him of his Life or Members? With what Instrument he was struck or wounded? And so of all prevailing Circumstances that can come by Presumption.

And if by Mischance or Accident, by the Act of God or Man, whether by hurt, fall, stroke, drowning or otherwise; to inquire of the Persons that were present, the Finders of the Body, his Relations or Neighbours; Whether he was kill'd in the same Place, or elsewhere? And if elsewhere, By whom, and how he was thence brought? And of all other Circumstances.

And if he died of his own Felony, then to inquire of the Manner, Means or Instrument; and Circumstances concurring.

After the Jury being charged, they must stand together, and let Proclamation be made for any that can give Evidence to draw near; and they shall be heard. Proclamation to be made.

And every Coroner is hereby further impowred, to send out his Warrant for Witnesses; commanding them to come to be examined before him, and to declare their Knowledge concerning the Matter in Question: And to administer an Oath unto the Witnesses in this Form. Warrant to be sent out for Witnesses.
That is to say:

ALL such Evidence as you shall give to this Inquest, concerning the Death of A. B. here lying dead, shall be the Truth, the whole Truth, and nothing but the Truth. Witnesses Oath.
So help you God.

The Examination of such Witnesses to be taken in writing under their Hands. And if they relate to the Trial of any Person concerning the Death of the Party found dead, then shall the Coroner bind over such Witnesses by Recognizance, in a reasonable Sum; not less than *Twenty Pounds* a Piece, personally to appear at the next Assizes, or Court of Oyer and Terminer and Goal Delivery, to be holden within the same County; then and there to testify their Knowledge concerning the Death of the said A. B. Witnesses to be bound over.

P

And

And the Jury having viewed the Body, heard the Evidence, and made what Inquiry they can into the Manner and Causes of the Death of the Person, they shall draw up and deliver unto the Coroner their Verdict thereupon in writing, under their Seals in Manner following; which shall pass by Indenture interchangeable, betwixt the Coroner and the Jury. *That is to say:*

Inquisition. *Suffolk ff.* **A**N Inquisition Indented, taken at *B.* within the said County of *S.* the Day of in the Year of the Reign of Our Sovereign Lord by the Grace of God, of *England, Scotland, France and Ireland, King, Defender of the Faith, &c.* before *T. E. Gent.* one of the Coroners of Our said Lord the King, within the County of *S.* aforesaid; upon view of the Body of *A. B.* of *B.* aforesaid then and there being dead, by the Oaths of *I. W. R. W. H. P. T. A. S. B. I. K. L. S. E. H. R. G. P. D. C. M. S. O. G. B.* and *N. S.* good and lawful Men of *B.* aforesaid within the County aforesaid; who being charged and sworn to inquire for Our said Lord the King, when, and by what Means, and how the said *A. B.* came to his Death. Upon their Oaths do say, &c.

Then insert, How, Where, at what Time, by what Means, with what Instrument, and in what Manner, the Party was kill'd, or come by his Death.

And if it appear the Person to have been kill'd and murdered by another that is known, the Inquisition must be concluded after this Manner, viz.

And so the Jurors aforesaid, upon their Oaths aforesaid, say, That the aforesaid *R. S.* in Manner and Form aforesaid, the aforesaid *A. B.* then and there feloniously did Kill and Murder against the Peace of Our Sovereign Lord the King, his Crown and Dignity.

If it appear to be Self-Murder, the Inquisition must conclude after this Manner, viz.

And so the Jurors aforesaid say upon their Oaths, That the said *A. B.* in Manner and Form aforesaid, then and there voluntarily and feloniously, as a Felon of himself, did Kill and Murder himself, against the Peace of Our Sovereign Lord the King, his Crown and Dignity.

If it appear the Person to be slain by Misfortune, the Inquisition must conclude after this Manner, viz.

And so the Jurors aforesaid say upon their Oaths, That the aforesaid *A. B.* in Manner and Form aforesaid, was killed, or came to his Death by Misfortune.

If by the Hands or Means of any other Person; thus, viz.

The aforesaid *R. F.* the aforesaid *A. B.* by Misfortune and contrary to his Will, in Manner and Form aforesaid, did kill and slay. In Witness whereof, as well I the Coroner aforesaid, as the Jurors aforesaid, to this Inquisition have interchangeably put our Hands and Seals, the Day and Year aforesaid.

And the Coroner shall make Return of all such Inquisitions taken before him unto the Justices of Assize, Oyer and Terminer and Goal Delivery.

Also upon any Verdict found of the Death of a Person by the Felony or Misfortune of another, shall speedily inform one or more of the next Justices of the Peace thereof; to the Intent, that such Person killing, or being any ways Instrumental to the Death of another, may be apprehended, examined and secured in order to a Trial.

Fees.

4W.&M.ca.18

And he it further enacted by the Authority aforesaid, That over and above the Fee already allowed by Law, the Coroner shall be allowed the Sum of *ten Shillings per Diem* for his Travel and Expences, upon every Inquisition by him taken; and every Juror attending the said Service, shall be allowed *two Shillings per Diem*; which Allowances shall be paid out of the Estate of the dead Person, or by the Parent or Master where any Apprentice or Child, under Age shall happen to be kill'd: And in want thereof to be paid by the County Treasurer out of the Treasury of such County; upon Representation thereof made by the Coroner to the Quarter Sessions.

And

Posthumus Children.

113

And every Coroner within the County for which he is appointed, shall be, and hereby is impowred to serve and execute all Writs and Processes directed unto him against the Sheriff or Marshal of the same County : And to return Jurors *de Talibus Circumstantibus*, where Need shall be, to fill up the Jury or Juries, in all Causes wherein the Sheriff or Marshal is concerned ; or related to either of the Parties in any Cause : And shall have the like Fee for serving of Writs in civil Causes, as is allowed by Law unto the Sheriff.

Coroners to
serve Writs,
&c.
11 W. ca. 2.
3 G. ca. 7.
12 G. ca. 4.
10 G. 2. ca. 5.
13 G. 2. ca. 2.

C H A P VII.

An Act providing for Posthumus Children.

FORASMUCH as it often happens, that Children are not born till after the Death of their Fathers ; and also have no Provision made for them in their Wills :

Preamble.

Be it therefore enacted by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same. That as often as any Child shall happen to be born after the Death of the Father, without having any Provision made in his Will, every such Posthumus Child shall have Right and Interest in the Estate of his or her Father, in like Manner as if he had died Intestate ; and the same shall accordingly be assigned and set out as the Law directs for the Distribution of the Estates of Intestates.

Posthumus
Children to
have a Pro-
portion, &c.

See Resolve
at the End
of this Act.

And whereas through the Anguish of the deceased Testator ; or through his sollicitous Intention though in Health ; or through the Oversight of the Scribe, some of the Testator's Children are omitted, and not mentioned in the Will ; many Children also being born after the making of the Will, though in the Life-time of their Parents :

Be it therefore enacted by the Authority aforesaid, That any Child or Children, not having a Legacy given them in the Will of their Father or Mother ; every such Child shall have a Proportion of the Estate of their Parents given and set out unto them as the Law directs for the Distribution of the Estates of Intestates.

And such as
have no Le-
gacy given
them.

Provided, Such Child or Children have not had an equal Proportion of his Estate bestowed on them by the Father in his Life time.

And whereas it sometimes happens, that a Man having formerly made his Will, doth afterwards marry a Wife, and then dies ; and the Will comes to be proved, to the Injury of such Wife :

In all such Cases the Widow shall have such Proportion of her late Husband's Estate assigned her, as if he had died Intestate ; as the Law directs for the Distribution of the Estates of Intestates : Any Law, Usage or Custom to the contrary notwithstanding.

Widows not
to be prejudi-
ced, by Wills
made before
Marriage.

Provided, That nothing in this Law shall extend to any Estate disposed of by Will, already settled.

[At a Great and General Court begun and held at Boston on the 28th Day of May 1718. A Question being moved upon the second Section or Paragraph in the Act providing for Posthumus Children, and such as have no Legacy given them by Will ; made in the Twelfth Year of King WILLIAM, viz. [Whether the said Act doth as well extend to the Grand-Children, in Case of the Death of the Father or Mother, as to the Child himself, if living ?]

Resolved in the Affirmative, and that the Law is so to be understood and practiced : Any Usage or Custom to the contrary notwithstanding.]

C H A P.

C H A P. VIII.

An Act in Addition to the Act for the equal Distribution of Insolvent Estates.

8 W. ca. 2.

WHEREAS in and by the Act Intituled, An Act for the equal Distribution of Insolvent Estates; made and pass'd in the eighth Year of his present Majesty's Reign: Amongst other Things therein contained; It is enacted, " That every Judge of Probate of Wills and granting Administrations, within the respective Counties, be and thereby is fully authorized and impowred to call before him, and to require and administer an Oath unto any Person or Persons, probably suspected by any Executor or Administrator, to have concealed, imbezeled or conveyed away any of the Money, Goods or Chattels left by the Testator or Intestate, for the discovery of the same: And in Case any such suspected Person was entrusted by the Person deceased, attended upon, or was otherwise conversant with or near unto him in the time of Sickness, or left in Possession of the Estate, whereby to strengthen and make the Suspicion more violent; and shall refuse to clear and acquit him or her self upon Oath; it shall and may be lawful for, and the Judge is impowred to commit such Person so refusing to Swear, unto the Goal of the County; there to remain until he or she shall comply to discharge him or herself upon Oath as aforesaid; or be released by Consent of the Executor or Administrator."

And whereas it has been observed, That sometimes Executors or Administrators have neglected their Duty, or been too favourable in not complaining of Persons of whom there has been just Suspicion of making Concealments, Imbezelments, or conveying away Part of the Estate belonging to their Testator or Intestate; whereby great Wrong and Injury has ensued:

For Remedy whereof:

All Persons interested may complain of Imbezelment.

Be it enacted by his Excellency the Governour, Council and Representatives in Genetral Court, and by the Authority of the same, That every Judge of Probate, be, and hereby is alike impowred, to call before him, and to require and administer an Oath unto any Person or Persons, probably suspected of making any Concealment, Imbezelment, or conveying away any of the Monies, Goods or Chattels, of any Person deceased; as well upon the Complaint of any Heir, Creditor, Legatary, or other Person having lawful Right or Claim to or in such Estate; as of the Executor or Administrator. And in Case the Party suspected (such Suspicion being strengthened, and made more violent for any of the Causes before mentioned) shall refuse to discharge him or herself upon Oath, then to proceed against them by Imprisonment, as the aforesaid Act directs.

Saving.

Saving to any Person aggrieved, the Liberty of an Appeal from any such Sentence, to the Governour and Council; the Appellant giving Security to prosecute such Appeal with Effect, in Manner as is by Law directed.

C H A P. IX.

An Act prohibiting the Exportation of Raw Hides, Upper-Leather, and Tann'd Calve-Skins, from out of this Province, other than for England.

Preamble.

WHEREAS the frequent shipping out of this Province, Raw Hides, Upper-Leather, and Tann'd Calve Skins for Holland and other Places, hath been much to the Damage of this Province; not only by Reason of the choicest of the said Hides, and Upper-Leather going off, but the great Quantities; that many Times the Necessity of the Province cannot be supplied:

Abuse of Indians.

115

Be it enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from henceforth no Raw Hides, Upper-Leather, or tann'd Calve-Skins, be laden on Board any Ship or Vessel, before the Master give Bond to the Commissioner for Impost or Receiver for the Time being, to the Value of *Five Hundred Pounds*, with sufficient Surety; that the same shall be by the said Ship or Vessel carried for *England, Wales*, Port or Town of *Berwick upon Tweed*, and no other Place; and be there landed, and put on Shore; (the Danger of the Seas only excepted) and shall in eighteen Months Time return a Certificate of the same. And if any shall presume to lade on Board any Ship or Vessel, any Raw Hides, Upper-Leather, or tann'd Calve-Skins, before Bond be given as aforesaid, he shall forfeit the same; and the Master of the Vessel shall forfeit the Value of all such Raw Hides, Leather or tann'd Calve-Skins, that he shall know to be on Board such Vessel.

To give Bond
to Land in
England.

Hides other-
wise laden to
be forfeited.

And if any Ship or Vessel, shall carry from out of this Province, any Raw Hides, Upper-Leather, or tann'd Calve Skins, before Bond given as aforesaid, or any Seizure be made; every Master of such Vessel knowing thereof, shall forfeit and pay double the Value of the same; and the Shipper double the Value of what shall be so shipped.

Master know-
ing of it, to
forfeit double
the Value.

Provided, That Information, Suit or Prosecution for the same be had and made within the space of eighteen Months next after the Offence committed, and not afterwards.

The afore-mentioned several Forfeitures, to be recovered by Action, Bill, Plaint or Information, in any of His Majesty's Courts of Record within this Province; and to be employed and disposed of, one Half thereof for and towards the Support of His Majesty's Government within the same; and the other Half to him or them that shall inform and sue for the same.

And it shall and may be lawful to and for every Justice of the Peace, upon Information given of any Raw Hides, Upper-Leather, or tann'd Calve Skins, laden or put on Board any Ship or Vessel, and Bond not given as aforesaid; to issue out his Warrant under his Hand and Seal, directed to the Water-Bailiff, or to the Sheriff, or his Deputy or Constable; requiring them respectively to make Seizure of any such Raw Hides, Upper-Leather, or tann'd Calve Skins, ship'd as aforesaid, and to secure them in order to Trial; who are hereby respectively empowered and required to execute such Warrant.

C H A P. X.

An Act for preventing Abuses to the Indians.

WHEREAS some of the principal and best disposed Indians within this Province, have represented and complained of the Exactions and Oppression, which some of the English exercise towards the Indians, by drawing them to Consent to, Covenant or bind themselves or Children, Apprentices or Servants, for an unreasonable Term; on Pretence of, or to make Satisfaction for some small Debt contracted or Damage done by them:

6 W. ca. 1.
Additional
Act.
4 G. ca. 6.

For Redress whereof:

Be it enacted and declared by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Indian shall contract or put or bind him or her self or Child, Apprentice or a Servant to any of His Majesty's Subjects, for any Time or Term of Years, but by and with the Allowance and Approbation of two or more of His Majesty's Justices of the Peace; who are required to take special Care that the Contract or Covenant so to be made, and the Condition or Terms thereof, be equal and reasonable; both with respect to the Time for Service, and otherwise.

And

No Indian to
be put out
Apprentice,
but by the
Allowance of
two Justices.

Sessions of the
Peace, to hear
and relieve
such as are
aggrieved.

And be it further enacted by the Authority aforesaid, That the Justices of the General Sessions of the Peace, within the respective Counties, be and hereby are impowred, upon Complaint made by any *Indian* Native of this Country, that is or shall be aggrieved by Reason of any Indenture, Covenant or Agreement heretofore made for any Time or Term of Service, not yet expired ; to hear and relieve such *Indian*, according to Justice and Equity ; and to regulate and order the Time for such Service, as they shall judge reasonable.

C. A A P. XI.

An Act in Addition to the Act for due Regulation of Weights and Measures.

4 W. & M.
ca. 14.

FOR remedying of Unrighteousness and Oppression, in dealing by the use of Measures that are not of due Breadth for Meal, Fruits and other Things usually sold by Heap :

The wedth
of Measures
for Things
sold by Heap.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Courte assembled, and by the Authority of the same, That all Measures by which Meal, Fruits ; and all other Things usually sold by Heap, shall be sold, be conformable as to Bigness to the declared publick allowed Standards ; mentioned in the Act made and passed by the General Assembly, in the Year One Thousand six Hundred ninety two, Intituled, *An Act for due Regulation of Weights and Measures* : And shall be of the full Breadths following : That is to say, The Bushel not less within side, than eighteen Inches and Half wide ; The half Bushel not less than thirteen Inches and three Quarters wide : the Peck not less than ten Inches and three Quarters wide ; and the half Peck not less than nine Inches wide.

Penalty for
selling by
other Mea-
sures.

And if any Person at any Time from and after the first Day of *October*, next after the Publication of this Act ; shall sell, expose to Sale, or offer any Meal, Fruits, or other Things usually sold by Heap ; by any other Measure than is afore-mentioned, as to bigness and breadth ; such Person being complained of, and convicted before any Justice of the Peace of so doing, shall forfeit and pay to the Use of the Poor of the Town where the Offence is committed the full Value of the Meal, Fruits, or other Things so sold or offered to Sale : And such Justice may commit the Offender to Prison, until Payment be made of the said Forfeiture, or cause the same to be levied by Warrant of Distress, and paid in unto the Town Treasurer, or Overseers of the Poor ; to the Use of the Poor as aforesaid ; and shall also cause such Measure to be defaced : Any Law, Usage or Custom to the contrary in any wise notwithstanding.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* : Begun and held at *Boston*, on Wednesday the twenty-ninth Day of *May*, 1700. And continued by several Prorogations until Wednesday the twelfth of *February* following, and then Sat.

C H A P. I.

An Act directing the Proceedings against forcible Entry and Detainer.

4 W. & M. ca. 6.

WHEREAS in and by the Act Intituled, An Act for the punishing of Criminal Offenders : Amongst other Things therein contained ; It is declared " That every Justice of the Peace in the County where
" the Offence is committed, be and is impowred to make Enquiry of
" forcible Entry and Detainer, and cause the same to be removed.

For

Forcible Entry and Detainer.

117.

For the better directing of Justices in such their Proceedings :

Be it enacted and declared by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That upon Complaint made to any one or more Justices of the Peace of any wrongful and forcible Entry made into any Lands, Tenements or other Possessions, lying within the County where such Justice or Justices dwell or reside ; or of any wrongful Detainer of any Lands, Tenements or other Possessions with Force and strong Hand ; every such Justice or Justices within convenient Time, at the Costs of the Party grieved, shall go to the Place where the Force is, taking with him the Sheriff or his Deputy, and other sufficient Power of the Town or County at his Discretion, if need be, to aid him, and all the People of the County, as well the Sheriff as others shall be attending to the said Justice or Justices, and assist him or them to arrest such Offenders, upon pain of Imprisonment, and to make Fine to the King.

Justices on Complaint made of forcible Entry, &c. to repair to the Place.

Assistance to be given to Justices under a Penalty for Neglect.

And that two Justices *Quorum Unus*, shall have Authority and Power to inquire by the Oaths of the People of the same County, as well of them that make such forcible Entry into Lands, Tenements or other Possessions, as of them that hold the same with Force. And if it be found upon such Inquiry, that a forcible Entry is made into any Lands, Tenements or Possessions ; or that the same are held with Force ; then such Justices shall cause the same Lands, Tenements or Possessions to be re seized, and thereof the Party to be again put into Possession, who in such Sort was put out or holden out.

Upon an Inquiry found, Restitution to be made.

And to the End that Enquiry be so made as aforesaid, such Justices shall make out their Warrants or Precepts, directed to the Sheriff of the same County, or his Deputy, commanding him on the King's Behalf to cause to come before them eighteen sufficient and indifferent Persons dwelling near unto the Lands or Tenements, so entred or held as before, whereof fourteen at least to be Impanelled, to inquire in this Behalf, each of whom to have Freehold Lands or Tenements of the yearly Value of *forty Shillings* at the least, who shall be Sworn by such Justices, well and truly to inquire of such forcible Entry, or forcible Detainer, and to return a true Verdict therein according to their Evidence ; and if the Sheriff shall make Default in not duly executing of such Warrant or Precept to him directed, he shall be fined the Sum of *Twenty Pounds* for every Default. And every Juror summoned by the Sheriff, making Default by his Non-appearance shall pay a Fine of *twenty Shillings* : Every Justice to be paid *ten Shillings* per Diem, the Sheriff *six Shillings* per Diem, and every Juror *two Shillings* per Diem, upon every Inquiry to be made as aforesaid.

A Jury to be impanelled and sworn.

Penalty for Default in the Sheriff or Jurors.

Allowance to Justices, &c.

And be it further enacted by the Authority aforesaid, That any Justice or Justices as aforesaid, may impose a Fine upon every Offender committing such Force as aforesaid, not exceeding the Sum of *forty Shillings* ; and bind them to the good Behaviour, and imprison such Offenders, till they pay such Fine, and find Sureties for the Behaviour, until the next Court of General Sessions, of the Peace within the same County, and then to appear ; and if the Offence be aggravated by any open and high handed Breach of the Peace, or otherwise, may bind the Offenders over to appear at the next General Sessions of the Peace, to answer for the same ; who may increase the Fine, according to the Aggravation and Circumstances of the Offence.

Justice or Justices may fine the Offender, &c.

All Fines arising by Virtue of this Act to be to and for the Use of the County, for defraying of County Charges. And the Party grieved shall recover treble Damages, and Costs of Suit by Action of Trespass against the Defendant or Defendants, if it be found by Verdict, or in any other Manner by due Form of Law ; that they entred into his Lands or Tenements by Force, or after Entry did hold with Force : Any Law, Usage or Custom to the contrary in any wise notwithstanding.

Fines how to be applied.

Provided always, That this Act shall not extend, or be construed to extend unto any Person or Persons that have had the Occupation, or have been in quiet Possession of any Lands, Tenements or Possessions by the space of three whole Years together next before ; and his, her or their Estate or Estates therein not ended or determined.

CHAP.

C H A P. II.

An Act directing how Town-Officers shall be Sworn, in such Towns where no Justice of the Peace dwells.

Preamble.

*W*HEREAS the Law requires, that several Town Officers be under Oath for the true and faithful Discharge of their respective Offices and Trust, to be administered unto them by one of the next Justices of the Peace, &c. And for as much as there are many Towns in which no Justice of the Peace dwells, but are far remote; by Reason whereof, the Officers annually and from Time to Time chosen in such Towns, whom the Law requires to be under Oath, are necessitated to travel several Miles to be sworn; which Occasions great Charge, besides Difficulties and Inconveniencies to the Inhabitants of such Towns:

Wherefore, for the Ease of His Majesty's Subjects in that Regard:

Select-Men
or the major
Part of them
to Swear
Town Offi-
cers, in
Towns where
no Justice
dwell.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and it is enacted by the Authority of the same, That in each Town within this Province where no Justice of the Peace dwells, the Select-Men of such Town for the Time being or the major Part of them, be, and are hereby authorized and impowred to administer to such Person, as from Time to Time shall be chosen Clerk of such Town; the Oath by Law appointed to be taken by each Town-Clerk, for the faithful Discharge of that Office; and to all other Officers of such Town, whom the Law requires to be Sworn, the Oath to their several and respective Places belonging, as by Law established.

A Record to
be made
thereof.

And such Select-Men shall cause a Record to be made in the Town Book of the Swearing of all such Officers: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

C H A P. III.

An Act for Tolling Horses that are to be Exported.

*F*OR the better preventing the stealing of Horses and Horse-Kind, and clandestinely conveying them away:

Town Clerk
to keep a
Toll-book.

Be it declared and enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That in every Sea-port Town within this Province, there be kept a Toll-Book by the Clerk of such Town, for the entring of all Horses and Horse Kind that shall be there ship'd for Exporation.

No Horses to
be ship'd be-
for they be
toll'd.

And no Person or Persons whatsoever, shall ship or send on board any Ship or other Vessel to be transported out of this Province, any Horse or Horse Kind, before he or they shall have presented and caused them to be viewed by the Town-Clerk of the Town where they are to be ship'd. And such Town-Clerk is hereby authorized and required to make a fair Entry in the Toll-Book of all such Horses and Horse Kind, with their Colour and Marks both natural and artificial, and Age as near as may be; and the Christian Name, Sir Name, Mystery and Place of dwelling; as well of the Person or Persons of whom the same were last bought, as of the present Owners or Shippers; and the Name of the Ship or Vessel, and of the Master or Commander thereof, whereon they are to be laden; and whither bound; and to deliver a Certificate under his Hand of such Entry by him made unto the Shipper, directed unto the Master of such Ship or Vessel by Name. For which Entry and Certificate, the Town Clerk shall demand and receive *six Pence* a Head for each Beast, and no more.

Fee.

And

Counterfeit Money.

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And be it further enacted by the Authority aforesaid, That if any Person shall presume to ship off any Horse or Horse Kind, not being first entred as aforesaid; or if the Master or Commander of any Ship or Vessel shall receive, take or suffer to be received or taken any Horse or Horse Kind, on board the Ship or Vessel then under his Command, without such Certificate as aforesaid; or other than what agree with the Description therein given; every Shipper or Master so offending, shall forfeit and pay the Sum of *ten Pounds*; one Moiety thereof to be unto the Use of the Poor of such Town where the Offence is committed, and the other Moiety to him or them that shall inform and sue for the same, by Action, Bill, Plaint or Information in any of His Majesty's Courts within this Province: Any Law, Usage or Custom to the contrary notwithstanding.

Penalty for shipping off or receiving on board Horses before tolling.

And the Town Clerk in each Sea-port Town, is in particular to take Care to the due observance of this Act, and to inform of all Transgressions thereof.

Town Clerk to see that this Act be observed.

C H A P. IV.

An Act against the making or passing of Base or Counterfeit Money.

*W*HEREAS some Persons for private Gain, have of late presumed to stamp and emit Pieces of Brass and Tin, at the Rate of a Penny each; not regarding what Loss they thereby bring on others; which if not timely remedied, may prove greatly detrimental to his Majesty's Subjects, and embolden others to be so hardy as to attempt the doing of the like:

2 A. CB. 1.

For Prevention whereof:

Be it declared and enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That any Person or Persons who after the Publication of this Act, shall presume to make or stamp any such Pieces as aforesaid, or others of like or different Metal, Matter or Form; and to emit, utter or put off the same for Pence; or at a greater or lesser Value; and be thereof convicted: every Person so offending, shall be punished by Fine and Imprisonment, at the Discretion of the Court where the Prosecution shall be, not exceeding the Sum of *Fifty Pounds* Fine, nor six Months Imprisonment for one Offence: And shall further forfeit and pay in currant lawful Money of this Province, treble the Value of all such Pieces as he shall have emitted or uttered. after the highest Rate they have passed at; one Half of the said Fine and Forfeiture to be unto His Majesty, for and towards the Support of the Government within this Province, and the other Half to him or them that shall inform, and sue for the same in any of His Majesty's Courts, within the Province.

Penalty for making stamping or uttering counterfeit Money.

And be it further enacted by the Authority aforesaid, That every Person or Persons that have or shall offend as aforesaid, shall exchange and pay in currant lawful Money of this Province the full Value of all such Pieces having his Stamp or Mark thereon, unto any Person or Persons that shall bring the same to him, according to the Rate they have passed at; so as such Pieces be brought and offered to him to be exchanged at any Time or Times within the space of three Months next after the Publication of this Act. And in Case of refusal to do, he shall be compelled thereto by Order of the General Sessions of the Peace within the same County; or of one Justice of the Peace, where the Value exceeds not *forty Shillings*.

Restitution to be made.

And no Person or Persons whatsoever shall hereafter offer to put off, utter or take any such base or counterfeit Money.

Prosecution of Appeals.

C H A P. V.

An Act relating to the Prosecution of Appeals.

11 W. ca. 1.

13 W. ca. 15.

WHEREAS it has been too often practised, that Persons having Judgment entred up against them in the Inferiour Court of Common Pleas, do Claim the Liberty of the Law to Appeal from such Judgment unto the next Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be holden for or within the same County; and after their Appeal admitted, neglect to give Security for Prosecution thereof as the Law requires; or after Security given, fail of Prosecuting their Appeal: whereby it is very obvious they designed nothing more than to stop Execution, and to delay and hold out the adverse Party from his just Debt or Damages recovered by such Judgment, to his grievous Hurt:

For Redress whereof:

Security for
Appeal to be
given in or
out of Court
within seven
Days after
Judgment.

On failure
Execution
to be granted.

Judgment to
be affirmed,
and Execution
awarded by
the Superiour
Court upon
Non-Prosecu-
tion of Ap-
peal.

Inferiour
Courts to ob-
serve the like
Methods.

Sureties upon
Appeals to
answer inter-
vening Da-
mages and
Cost, in Case.

Be it declared and enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That every Person appealing from the Judgment of any Inferiour Court of Common Pleas, unto the Superiour Court of Judicature, Court of Assize and General Goal Delivery, shall enter into Recognizance with sufficient Sureties to prosecute such Appeal with Effect; which Recognizance is to be taken before such Inferiour Court whilst sitting; or before one or more of the Justices of the same, with the Clerk out of Court, within the space of seven Days next after Judgment given, and not afterwards. And if any Person claiming and being admitted to Appeal as aforesaid, shall not give Security for Prosecution thereof in Manner aforesaid, either before or within the said space of seven Days next after Judgment given; every Claim and Allowance of such Appeal shall be utterly null and void, as if the same had never been made and granted; And in such Case after Expiration of the said seven Days, the Clerk of such Inferiour Court, upon Demand of the Party for whom the Judgment was given, or of his Attorney, shall *ex Officio* make and issue out Execution thereupon.

And be it further enacted by the Authority aforesaid, That if any Person having appealed and given Security for Prosecution thereof as aforesaid shall neglect to prosecute the same with Effect in Manner as the Law provides, the Party that obtained the Judgment in the Inferiour Court of Common Pleas, entring his Complaint in the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to which such Appeal did lie, and producing attested Copies of the Judgment, Appeal and Recognizance given for Prosecution thereof, the Justices of the said Superiour Court of Judicature, Court of Assize and General Goal Delivery, shall affirm such Judgment of the Inferiour Court of Common Pleas, with the Costs arising upon the Suit there; and grant further Costs for entring and prosecuting the Complaint as aforesaid, and award Execution accordingly. The Fee to be paid for entring of such Complaint, shall be the same as for entry of an Action; and the Parties Attendance and Charges the same as the Law allows in like Cases.

And the like Process and Methods shall be had and observed in the Inferiour Court of Common Pleas, for Persons that shall fail to prosecute Appeals made from Judgment given upon Trials before a Justice of the Peace: Any Law Usage or Custom to the contrary in any wise notwithstanding.

And be it further enacted by the Authority aforesaid, That all Recognizances given for prosecuting of Appeals as aforesaid, shall remain good for the Benefit of the Parties respectively for whom they were taken, to bring a Suit thereon, to recover all intervening Damages occasioned by such Parties being delayed from the Time of rendering the first Judgment unto the Time when such Appeal should have been tried: And the Sureties in such Recognizance named, shall be liable and obliged to satisfy the Judgment given for such intervening Damages, with the additional Costs of Suit, in Case of the Principals Avoidance

Avoidance and Return made of *Non est Inventus*, upon the Execution granted against him : And the Judgment for the same shall be affirmed against such Sureties, and Execution be awarded accordingly ; as is by Law provided referring to Sureties upon mean Procefs.

Provided, That such Sureties be served with a Writ of *Scire Facias* within twelve Months next after rendering of Judgment upon the Trial on such Recognizance ; and not afterwards.

C H A P. VI.

An Act for the better making and measuring of Malt.

25 E it declared and enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Malster or Malt-maker, shall deliver, vend or pass away any Malt by him made or caused to be made, before the same be well dried and cleansed, by screening of it from the Dust and Taile which arises in the making, drying and ordered of it in his Hands ; on pain of forfeiting *twelve Pence* per Bushel, for each Bushel by him delivered, sold or passed away, not being so cleansed and dried ; upon Conviction thereof before one or more Justices of the Peace, where the Forfeiture shall not exceed the Sum of *forty Shillings* ; or if above, before the General Sessions of the Peace holden within the County : One Moiety of such Forfeiture to be unto the Use of the Poor of the Town where the Offence is committed ; and the other Moiety to him or them that shall complain or inform and sue for the same. And such Court or Justice respectively, are hereby impowred, in Case such Malster shall stand to justify that his Malt is well dried and cleansed as aforesaid, to nominate and appoint three or more credible skilful Persons, to view and judge thereof upon their Oaths ; and to administer an Oath to them to be indifferent and impartial therein.

Malt to be well dried & cleansed.

Penalty.

To be viewed and judged of by Persons on Oath.

And no Malt made of Barley shall be accounted Merchantable, but such as shall be well cleansed from the Dust, Oats, Tares and Cockle.

Merchantable Malt.

And every Person that shall offer and expose to Sale any Barley Malt for Merchantable, not being cleansed as aforesaid, shall forfeit and pay the Sum of *twelve Pence* a Bushel, for each Bushel so offered or exposed to Sale ; being thereof convicted in Manner as is herein before provided, to be applied to the Use before-mentioned.

Penalty for offering to Sale unmerchantable Malt.

And further it is enacted, That every Master of any Vessel that shall receive on Board his Vessel any Malt to be transported to a Market, shall take effectual Care, and make sufficient Provision for the keeping of Merchantable Malt separate and apart by it self, that it be not intermixt with what is Unmerchantable ; on pain of losing and forfeiting the Value of all the Freight to be paid for the Malt so mixed ; to the Use of the Poor of the Town where such Malt shall be delivered, upon Conviction thereof as aforesaid : And shall be further liable to make good to the Shipper or Owner of all such Merchantable Malt mixt as aforesaid, all Loss and Damage that he shall sustain thereby : to be recovered by Action, therefore to be brought in any of His Majesty's Courts within this Province ; and where the Sum exceeds not the Value of *Forty Shillings*, before one Justice of the Peace.

Masters of Vessels to take care to keep Merchantable, and unmerchantable Malt separate.

And be it further enacted by the Authority aforesaid, That in the measuring of Malt, the Strike shall be carried softly and sawing : Any Law, Usage or Custom to the contrary notwithstanding.

Malt how to be measured.

C H A P. VII.

An Act providing, That in Suits where Goods or other Estate is Attached, the Defendant be summoned.

TO the Intent that all Persons may have due Notice to prepare and make their Defence, in every Action or Suit commenced against them :

Summons to
be left at the
Defendants
Place of usual
Abode &c.

How to be
certified.

How to be
served upon
Writ of
Dower, or
Scire Facias.

Provision in
Actions bro't
against Per-
sons out of
the Province.

Security to be
given before
Execution.

Real Estates
taken in Exe-
cution, not to
be alienated
within twelve
Months.

Proviso for
Real Estates.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when the Goods or Estate of any Person shall be attached at the Suit of another in any civil Action, a Summons in form as by Law is prescribed shall be delivered to the Party whose Goods or Estate are attached, or left at his or her dwelling House, or Place of last and usual Abode, fourteen Days before the Day of the sitting of the Court where such Attachment is returnable. And in Case the Defendant was at no Time an Inhabitant or Sojourner within this Province, then such Summons to be left with his or her Tenant, Agent or Attorney; and the serving thereof to be certified by a sworn Officer that executed the Attachment; or by Affidavit made in Court by the Person that delivered the same, and by one other credible Witness then also present : otherwise the Writ shall abate.

And upon Suits brought hither by Writ of *Scire Facias*, or Writ of Dower, when the Defendant in any such Suit shall not be served therewith in his own Person, an attested Copy of the Writ, and of the Service thereof under the Hand of the Sheriff or his Deputy that executed the same, shall be left at the House or Place of usual Abode of the Defendant. And in Case such Defendant was at no Time an Inhabitant or Sojourner within this Province, then with his or her Tenant, Agent or Attorney as aforesaid, by the like Number of Days before the Day of the Court's Sitting where such Writ is returnable, as is required for the Service thereof. And in Writ of Dower a Copy thereof with the Service alike attested as before, shall also be left with the Tenant or Occupant of the House or Land whereof Dower is demanded to be rendred, or in or upon the same; and the Sheriff or his Deputy shall certify the same in his Return : or otherwise the Writ shall abate.

And further it is enacted by the Authority aforesaid, That when it happens the Party against whom Suit is brought, not to be an Inhabitant or Sojourner within this Province; or to be absent out of the same at the Time of commencing such Suit, and shall not return before the Time for Trial, the Justices of the Court where such Suit is brought, shall continue the Action to the next Court : And if the Defendant do not then appear by himself or Attorney, and be so remote, that the Notice of such Suit depending could not probably be conveyed to him during the Vacancy; the Justices at such next Court may further continue the Action to the Court thence next following, and no longer. And in such Cases where Judgment is entred up by Default, after two Continuances as aforesaid, Execution or Writ of Seisin shall be stayed, and not issue forth until the Plaintiff or Demandant shall have given Bond, with one or more sufficient Sureties; in double the Value of the Estate or Sum recovered by such Judgment, to make Restitution, and to refund and pay back such Sum as shall be given in Debt or Damage; or so much as shall be recovered upon a Suit therefore to be brought within twelve Months next after entring up of the first Judgment; if upon such Suit the Judgment shall be reversed, annulled or altered. The Security aforesaid to be no further answerable than for the Recovery that shall be made upon such Suit, to be had within twelve Months as aforesaid.

Provided also, That no Real Estate taken in Execution, granted upon such first Judgment, shall be alienated or pass'd away until after the Expiration of the said twelve Months, or after a new Trial brought within the said Space of twelve Months; to the Intent that Restitution thereof may be made in Case as aforesaid.

C H A P. VIII.

An Act for rendering an Account of Fines, &c.

WHEREAS by the Act Entituled, An Act for passing of Sheriff's Accounts; amongst other Things therein contained; It is enacted, That every Clerk of the Peace in each County within this Province, and Clerk of Assize, shall deliver unto the Sheriff of the County, a perfect Estreat of all Fines, Issues, Amerciaments, Recognizances, Monies and Forfeitures imposed, set, lost or forfeited in any Sessions of the Peace, Court of Assize and General Goal Delivery, or special Court of Oyer and Terminer, by any Person due to his Majesty, within the space of thirty Days next after ending of the said Courts respectively; and within the said Time shall deliver unto the Treasurer and Receiver General of this Province, a perfect Schedule of all such Estreats by him delivered to the Sheriff, &c. But for as much as no Provision has hitherto been made, how Fines or Forfeitures accruing to any County or Town (or the Poor thereof) or how Fines or Forfeitures set by one or more Justices out of Court shall be accounted for:

Be it therefore enacted and declared by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all Clerks of the Peace and Clerks of Assize, be, and hereby are likewise respectively enjoined and required, within the space of thirty Days next after the ending of each Sessions of the Peace, Court of Assize and General Goal Delivery, or special Court of Oyer and Terminer, to render and deliver unto the Treasurer of each County and Town respectively, a perfect Schedule or Account of all Fines, Amerciaments, Monies and Forfeitures, imposed, set or forfeited in such Court, and by Law appropriated to the Use of such County or Town, (or the Poor thereof) respectively: under the like Penalty, as in the afore-recited Act is express'd for not returning such Schedule to the Treasurer and Receiver General.

Clerks of Courts to return an Account of Fines to County and Town Treasurers.

And further be it enacted by the Authority aforesaid, That all and every Justice and Justices of the Peace, at the End of every six Months, shall render and deliver to the Treasurer and Receiver General of this Province for the Time being, County and Town Treasurer respectively, a perfect Schedule or Account of all Fines, Amerciaments, Monies and Forfeitures, imposed, set or forfeited before such Justice or Justices out of Court, due to his Majesty; or by Law or Town-Order particularly applied to the Use of such County or Town (or the Poor thereof) respectively; on pain of forfeiting the Sum of five Pounds to his Majesty, towards Support of the Government; or to such County or Town respectively, for the defraying of County or Town Charges: Being duly convicted of neglect therein, to be sued for and recovered by the Treasurer and Receiver General of the Province; or such County or Town Treasurer for the Time being: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

Justices of the Peace to render an Account of Fines &c. each six Months, under a Penalty.

C H A P. IX.

An Act for the convenient and speedy Assignment of Dower.

FORASMUCH as some Direction in the Law is necessary that Women may be enabled to come by their Dower:

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often as the Heir or other Person having the Freehold shall not within one Month next after Demand made, assign and set out to the Widow of the Deceased, her Dower or just third Part of and in all Houses, Lands, Tenements or Hereditaments whereof she is Dowable at the common Law, to her Satisfaction according to the true Intendment of Law; then such Widow may sue

Heir, &c. to render Dower within one Month next after Demand.

Writ of
Dower.

sue for and recover the same by Writ of Dower to be therefore brought against such Persons as have, or claim to have Right as aforesaid in the said Estate, in Manner and Form following. *That is to say :*

S—*ff.* **W**illiam the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To the Sheriff of Our County of S. his Under-Sheriff or Deputy, *Greeting.* Command *A. B.* of *B.* within the said County ^{addition} That instantly without delay render to *C. D.* who was the Wife of *E. D.* late of *B.* aforesaid ^{addition} deceased, her reasonable Dower which happens to her of a certain Messuage or Tenement, with the Appurtenances, Situate in *B.* aforesaid, in the Possession of the said *A. B.* which was in the Seisin and Possession of her said Husband *E. D.* and whereof he was seized in his Dimesne as of Fee during the Coverture ; and whereof she hath nothing (as she saith) And the said *C. D.* complains, that the said *A. B.* hath deforced her thereof. And unless the said *A. B.* shall so do, then Summon by good and lawful Men in your Bailiwick the said *A. B.* that be before Our Justices of Our next Inferiour Court of Common Pleas to be holden at *B.* for the County of S. aforesaid, on the *Tuesday* of Then and there to shew Cause, why to the said *C. D.* her reasonable Dower as aforesaid doth not render. And have you the Names of them by whom you Summon the said *A. B.* and this Writ. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. *Annoque Domini,* *A. D.* Clerk.

And be it further enacted by the Authority aforesaid, That upon Judgment being given for any Woman to recover her Dower in any Estate of Housing and Lands, and other Hereditaments which were her Husband's, reasonable Damage shall also be assigned to her from the Time of the Demand made, and a Writ of Seisin shall be directed to the Sheriff of the County, or his Deputy, where such Lands, Tenements or Hereditaments do lie, in Manner and Form following. *That is to say :*

Writ of
Seisin, &c.

S—*ff.* **W**illiam the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To the Sheriff of Our County of S. his Under-Sheriff or Deputy: *Greeting.* Whereas *C. D.* Widow, who was the Wife of *E. D.* late of *B.* in the County aforesaid ^{addition} deceased, before Our Justices of Our Court of holden at *B.* for Our County aforesaid, on the Day of now last past, did recover her Seisin against *A. B.* of *B.* aforesaid ^{addition} of one third Part of a certain Messuage or Tenement, &c. with the Appurtenances, Situate in *B.* aforesaid, in the Possession of the said *A. B.* as her Dower of the Endowment of the said *E. D.* her certain Husband, by Our Writ of Dower, whereof she hath nothing. Therefore We Command you, That to the said *C. D.* full Seisin of one third Part of the aforesaid Messuage or Tenement, &c. with the Appurtenances, you cause to be had without delay. To hold to her in Severalty by Meets and Bounds. We Command you also, That of the Goods or Chattels of the said *A. B.* within your Precinct, you cause to be paid and satisfied unto the said *C. D.* at the Value thereof in Money, the Sum of for Damages awarded her by Our said Court for her being held and kept out of her Dower aforesaid, and Costs expended on this Suit, with *two Shillings* more for this Writ, and thereof also to satisfy your self your own Fees. And for want of Goods or Chattels of the said *A. B.*'s, to be by him shewn unto you, or found within your Precinct to satisfy the same, We Command you to take his Body, and commit him to the Keeper of Our Goal in *B.* in Our County aforesaid within the said Prison. Whom We likewise Command to receive the said *A. B.* and him safely to keep, until he pay unto the said *C. D.* the full Sum above mentioned, and also satisfy your Fees. Hereof fail not, and make return of this Writ, and how you shall have executed the same to Our next Court of to be holden at *B.* for Our said County of S. on the Day of next. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. *Annoque Domini,* *A. D.* Clerk.

And

Admission of Town Inhabitants.

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And where no Damages shall be awarded the Writ to run only for Seisin and Cost of Suit.

And the Sheriff of the County, or his Deputy to whom such Writ is directed is to cause her third Part of Dower in such Estate to be set forth unto her by five Freeholders of the Neighbourhood upon their Oaths (three at least to agree) who shall be Sworn before a Justice of the Peace, to set forth the same equally and impartially without Favour or Affection, as convenient as may be; Which Oath every Justice of the Peace is hereby impowered to administer.

And be it further enacted by the Authority aforesaid, That of Inheritances that be intire, where no Division can be made by Meets and Bounds; so as a Woman cannot be endowed of the Thing it self, she shall be endowed thereof in a special and certain Manner, as of a third Part of the Rents, Issues or Profits thereof, to be computed and ascertained in Manner as aforesaid.

And no Woman that shall be endowed of any Lands, Tenements or other Inheritances as aforesaid, shall commit or suffer any Strip or Waste thereupon, but shall maintain the Houses or Tenements, with the Fences and Appurtenances thereof, with which she shall be so endowed, in good Repair during her Term, and leave the same so at the Expiration thereof, and shall be liable to Action for any Strip or Waste by her done, committed or suffered.

And be it further enacted by the Authority aforesaid, That when the Defendant in a Writ of Dower shall suffer Judgment to pass against him by Default, no Damages shall be awarded against him by such Judgment, for having held and kept the Demandant out of her Dower, but she shall recover the same in like Manner as she might sue for or recover Damages in other Cases: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

C H A P. X.

An Act directing the Admission of Town Inhabitants.

FOR the better preventing of Persons obtruding themselves on any particular Town within this Province, without orderly Admission by the Inhabitants of such Town, or the Select-men thereof, in Manner as hereafter is express'd: And for remedying the manifold Inconveniencies and great Charge heretofore occasioned thereby. To the Intent also that the Select-men may the more easily come to the certain Knowledge of Persons, and their Circumstances, that come to reside and sojourn in such Town:

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That every Master of Ship or other Vessel arriving in any Port within this Province, from any other Country, Land, Island, Colony or Plantation, at the Time of entering his Ship or Vessel with the Receiver of Impost, for the Time being; shall deliver to such Receiver a perfect List or Certificate under his Hand of the Christian and Sir-Names of all Passengers, as well Servants as others, brought in such Ship or Vessel, and their Circumstances so far as he knows; on pain of forfeiting the Sum of five Pounds, to the Use of the Poor of the Town or Place, where such Passenger shall be landed or sent on Shoar, for every Passenger that he shall omit to enter his or her Name in such List or Certificate; upon Conviction thereof before His Majesty's Justices in the Court of General Sessions of the Peace, within the same County where the Offence is committed. And every Justice of the Peace is hereby impowered, upon Complaint made by the Select-men of such Town, or some of them, to convent such Master before him, and to require and take sufficient Security of him to appear and Answer for his said Offence in Manner as abovesaid; such Complainants also giving Bond to prosecute their Complaint.

And

Admission of Town Inhabitants.

Security to be given to indemnify the Town from Charge, &c.

11 G. ca. 1.
12 & 13 G. 2. ca. 1.

What Persons shall be relieved at the Charge of the Province.

Court of General Sessions of the Peace, to enjoin the observance of this Law.

Receiver of Impost to transmit Lists of Passengers to the Town Clerk.

Persons not orderly admitted into Towns, shall not enjoy Privileges of Elections.

4W&M.ca.13.

No Town obliged to be at Charge for Relief of Persons, not approved as aforesaid; unless, &c.

Persons orderly warned, & sent out of any Town, returning back to be proceeded with as Vagabonds.

And further it is enacted, That when it shall happen any Passenger so brought, to be Impotent, Lame, or otherwise Infirm, or likely to be a Charge to the Place; if such Person shall refuse to give Security, or cannot procure sufficient Surety or Sureties to become bound for his saving the Town from such Charge; in such Case, the Master of the Ship or Vessel in which such Person came, shall be, and hereby is obliged and required, to carry or send him or her out of this Province again, within the space of two Months next after their Arrival; or otherwise to give sufficient Security as aforesaid, to indemnify and keep the Town free from all Charge for the Relief and Support of such Impotent, Lame or Infirm Person, upon Demand thereof made by the Select-men: unless such Person was before an Inhabitant of this Province; or that such Impotence, Lameness, or other Infirmary befel or happened to him or her during the Passage: And in such Case, if they be Servants, their Masters shall provide for them, and others shall be relieved at the Charge of the Province.

And the Justices of the General Sessions of the Peace, are hereby impowred to enjoin and order the Performance of what is herein before required of such Master accordingly.

And the Receiver of Impost is likewise required to inform and notify all Masters of Ships, and other Vessels coming to him to enter, of the Import of this Act, and what is thereby enjoined and required of them; and not to admit an Entry without such List or Certificate, of the Names of the Passengers (if any) or that the Master give under his Hand that he brought none. And every such Receiver shall forthwith transmit all Lists or Certificates of Passengers, to the Town Clerk of such Town where the Ship or Vessel that brought them shall lie, that the Select-men may have Knowledge of the same. And such Town Clerk is hereby required to lay all such Lists or Certificates returned to him, before the Select-men at their next Meeting.

And be it further enacted by the Authority aforesaid, That from and after the Publication of this Act, no Person whatsoever coming to reside or dwell within any Town in this Province (other than Freeholders or Proprietors of Land in such Town, or those born, or that have served an Apprentiship there, and have not removed and become Inhabitants elsewhere) shall be admitted to the Priviledge of Elections in such Town, (though otherwise qualified) unless such Person shall first make known his Desire to the Select-men thereof, and obtain their Approbation, or the Approbation of the Town for his dwelling there.

Nor shall any Town be obliged to be at Charge for the Relief and Support of any Person residing in such Town (in Case he or she stand in Need) that are not approved as aforesaid; unless such Person or Persons have continued their Residence there by the space of twelve Months next before, and have not been warned in Manner as the Law directs, to depart and leave the Town: Any Law, Usage or Custom to the contrary notwithstanding.

And if any Person orderly warned to depart from any Town whereof he or she is not an Inhabitant, and being sent by Warrant from a Justice of Peace unto the Town whereto such Person properly belongs, or to the Place of his or her last Abode, shall presume to return back, and obtrude him or her self upon the Town so sent from, by residing there; every Person so offending, shall be proceeded against as a Vagabond.

Writs in Civil Causes.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-eighth of *May*, 1701.

C H A P. XI.

An Act prescribing Forms of Writs in Civil Causes.

W E it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and it is enacted by the Authority of the same, That all Civil Actions other than such as are Cognizable before a Justice of the Peace, shall be originally heard and tried in an Inferiour Court of Common Pleas; except in Suits where the King is concerned, which may be brought in any of His Majesty's Courts within this Province, at the Pleasure of the Prosecutor. And the proper original Process of Summons, Capias or Attachment, and the Writ of Execution in civil Actions betwixt Party and Party, shall be made out in the Forms following:

That is to say;

Summons.

S—*J.* **W**illiam the Third, by the Grace of GOD, of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of Our County of *S* his Under-Sheriff or Deputy, *Greeting.* We Command you, That you Summon *A. B.* of *C.* addition (if he may be found in your Precinct) to appear before Our Justices of Our Court of to be holden at *B.* within and for Our said County of *S.* on the *Tuesday* of Then and there in Our said Court to Answer to *D. E.* of *R.* within Our County of *M.* addition in a Plea of To the Damage of the said *D. E.* (as he saith) The Sum of Pounds: Which shall then and there be made to appear with other due Damages. And have you there this Writ with your Doings therein. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. *Annoque Domini,*
A. D. Clerk.

Capias or Attachment.

S—*J.* **W**illiam the Third by the Grace of GOD of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of Our County of *S.* his Under-Sheriff or Deputy, *Greeting.* We Command you to Attach the Goods or Estate of *R. F.* of *B.* within Our County of *S.* addition to the Value of Pounds; and for want thereof to take the Body of the said *R. F.* (if he may be found in your Precinct) and him safely keep, so that you have him before Our Justices of Our Court of next, to be holden at *B.* within and for Our said County of *S.* on the *Tuesday* of Then and there in Our said Court to Answer unto *D. S.* of *R.* within Our County of *M.* addition in a Plea of To the Damage of the said *D. S.* (as he saith) the Sum of Pounds: Which shall then and there be made to appear, with other due Damages. And have you there this Writ with your Doings therein. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. *Annoque Domini,*
A. D. Clerk.

Summons when Goods are Attached.

S—*J.* **W**illiam the Third, by the Grace of GOD, of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To *A. B.* of *B.* within Our County of *S.* addition *Greeting.* We Command
R *mand*

Writs in Civil Causes.

mand you, That you Appear at Our next Court of to be holden at *B.* within and for Our County of *S.* aforesaid, on the *Tuesday* of Then and there to Answer to *C. D.* of *R.* within Our County of *M.* addition in a Plea of Which Plea the said *C. D.* hath Com- menced against you to be heard and tried at the said Court ; and your Goods or Estate are Attached to the Value of Pounds for Security to satisfy the Judgment which the said *C. D.* may recover upon the aforesaid Trial. Fail not of Appearance at your Peril. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. *Annoque Domini,*
A. D. Clerk.

Execution.

*S—J. W*illiam the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To the Sheriff or Marshal of Our County of *S.* his Under-Sheriff or Deputy, Greeting. Whereas *C. L.* of *R.* within Our County of *S.* addition by the Consi- deration of Our Justices of Our Court of holden at *B.* for and within Our County of *S.* aforesaid, on the *Tuesday* of Recovered Judgment against *D. T.* of *B.* in the County of *M.* addition for the Sum of Pounds Shillings and Pence, Debt or Damage, and Pounds Shillings and Pence, Costs of Suit ; as to Us appears of Record ; whereof Execution remains to be done. We Command you therefore, That of the Goods, Chattels, or Lands of the said *D. T.* within your Precinct, you cause to be paid and satisfied unto the said *C. L.* at the Value thereof in Money, the aforesaid Sums being Pounds Shillings and Pence, in the whole ; with *two Shillings* more for this Writ, and thereof also to satisfy your self for your own Fees. And for want of Goods, Chattels or Lands of the said *D. T.*'s to be by him shewn unto you, or found within your Precinct to the Acceptance of the said *C. L.* to satisfy the Sums aforesaid : We Command you to take the Body of the said *D. T.* and him com- mit unto our Goal in *B.* in Our County of *S.* aforesaid ; and detain in your Custody within Our said Goal, until he pay the full Sums above-mentioned with your Fees, or that he be discharged by the said *C. L.* the Creditor. or otherwise by Order of Law. Hereof fail not, and make Return of this Writ with your Doings therein into Our said Court of to be holden at *B.* within Our County of *S.* aforesaid, upon the *Tuesday* of next. Witness *E. H.* Esq; at *B.* the Day of in the Year of Our Reign. *Annoque Domini,*
A. D. Clerk.

11 W. ca. 2.

And be it further enacted by the Authority aforesaid, That all Proceses and Writs, as well Original as Judicial, issuing out of the Clerk's Office of the Superiour Court of Judicature shall bear Teste of the Chief Justice, and upon any Vacancy of such Chief Justice, then of the senior Justice of the said Court for the Time being. And all original or judicial Proceses or Writs issuing out of the Clerk's Office of the Inferiour Court of Common Pleas shall bear Teste of the first Justice named in the Commission for holding such Court ; and upon any Vacancy by his Death or Removal, then of the Justice next named in the said Commission, for the Time being.

C H A P. XIII.

An Act prescribing the Forms of Writs for Possession;
Scire Facias, and Replevin.

23 E it enacted by the Lieutenant Governour, Council and Represen- tatives in General Court assembled, and by the Authority of the same, That the Writ for putting such into Possession of any Land or Tenements as shall recover Judgment for the same, and for levying the Cost and Damages recovered upon such Suit, commonly call'd a Writ of *Facias habere*

Forms of Writs for Possession, &c.

habere Possessionem, and Writ of *Fieri facias*: As also the Writ of *Scire facias*, to be issued out of the Superiour or Inferiour Court respectively; and the Writ of *Replevin*, shall be from Time to Time granted and issued in the Form following. *That is to say*:

Writ of *facias habere Possessionem*, and *Fieri facias*.

S—*J. W*illiam the Third by the Grace of GOD of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of Our County of *S.* his Under-Sheriff or Deputy, *Greeting*. Whereas *A. B.*, of *C.* addition before Our Justices of Our Court of holden for or within Our County of *S.* aforesaid at *B.* upon the Day of by the Consideration of Our said Court, recovered Judgment for his Title and Possession of and in a certain Messuage or Tenement, with the Appurtenances, or Acres of Land, &c. lying and being in the Town of *D.* against *E. F.* of *G.* addition who had unjustly with-held; put out or amoved the said *A. B.* from his Possession thereof. And also at the said Court recovered Judgment for Pounds Shillings and Pence, for Costs and Damages which he sustained by Reason of the same: As to Us hath been made to appear of Record. We Command you therefore, That without Delay you cause the said *A. B.* to have Possession of and in the said Messuage or Tenement with the Appurtenances; or said Acres of Land, &c. We also Command you, That of the Goods, Chattels or Lands of the said *E. F.*'s within your Precinct at the Value thereof in Money, you cause the said *A. B.* to be paid and satisfied the aforesaid Sum of Pounds Shillings and Pence, which to the said *A. B.* was adjudged for his Costs and Damages, with two Shillings more for this Writ; and thereof also to satisfy your self for your own Fees. And for want of such Goods, Chattels or Lands of the said *E. F.* to be by him shewn unto you or found within your Precinct to the Acceptance of the said *A. B.* to satisfy the aforesaid Sum: We Command you to take the Body of the said *E. F.* and him commit unto our Goal in *B.* in Our County of *S.* aforesaid; and detain in your Custody within Our said Goal, until he pay the full Sum above-mentioned with your Fees; or that he be discharged by the said *A. B.* or otherwise by Order of Law. Hereof fail not, and make Return of this Writ with your Doings therein unto Our said Court of to be holden at *B.* upon the Day of next. Witness *E. H.* Esq; at *B.* the Day of In the Year of Our Reign. Annoque Domini, A. D. Clerk.

Writ of *Scire facias*.

S—*J. W*illiam the Third by the Grace of GOD of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of Our County of *S.* his Under-Sheriff or Deputy, *Greeting*. Whereas *C. D.* of *B.* addition before Our Justices of Our Court of holden for or within Our said County of *S.* at *B.* on the Day of In the Year of Our Reign: By the Consideration of Our said Justices, Recovered against *A. B.* of *E.* addition the Sum of Pounds Shillings and Pence, Debt or Damage; and also Pounds Shillings and Pence, for Costs and Charges by him about his Suit in that Behalf expended; whereof the said *A. B.* is convict, as to Us appears of Record. And altho' Judgment be thereof rendred, yet the Execution for the said Debt or Damage, and Costs, doth yet remain to be made; whereof the said *C. D.* hath supplicated Us to provide Remedy for him in that Behalf: Now to the End that Justice be done, We Command you, That you make known unto the said *A. B.* That he be before Our Justices of Our said Court of to be holden within or for Our said County of *S.* at *B.* on the Day of to shew Cause (if any he have) wherefore the said *C. D.* ought not to have his Execution against him the said *A. B.* for his Debt or Damage

Forms of Writs before a Justice.

mage, and Costs aforesaid ; and further to do and receive that which Our said Court shall then consider : And have there then this Writ, with your Doings therein : Hereof fail not. Witness *E. H.* Esq; at *B.* the Day
of In Year of Our Reign. *Annoque Domini*
A. D. Clerk.

C H A P X I V.

An Act prescribing the Form of Writs in Cases triable before a Justice of the Peace.

9 W. ca. 2. **23** *E*t it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and it is enacted by the Authority of the same. That the several Forms of Writs and Processes here under written, shall be and hereby are established to be the Forms to be granted and used in civil Causes triable before a Justice of the Peace. *That is to say :*

Summons for Appearance.

S—J. **T**O the Sheriff or Marshal of the said County of *S.* or either of their Deputies, or Constables of the Town of *B.* within the said County, or to any or either of them : *Greeting.* In His Majesty's Name you are required to Summon and give Notice unto *T. P.* of *B.* aforesaid, ^{addition} (if he may be found in your Precinct) that he appear before me *J. D.* Esq; One of His Majesty's Justices of the Peace for the County aforesaid, at my dwelling House in *B.* on the Day of at of the Clock in the noon : Then and there to Answer to *E. L.* of *M.* ^{addition} In a Plea of To the Damage of the said *E. L.* (as he saith) the Sum of *Shillings* : As shall then and there appear with other due Damages. You are also hereby further required to signify unto the said *T. P.* that he may not fail in the Premisses, as he will Answer the Contempt at the Peril of the Law in this Case made and provided : And of this Writ with your Doings therein you are to make true Return unto my self, at or before the said Day of Dated at *B.* aforesaid, the Day of In the Year of His Majesty's Reign. *Annoque Domini,* *J. D.*

Warrant for Contempt.

S—J. **T**O the Sheriff or Marshal of the said County of *S.* or either of their Deputies, or Constables of the Town of *B.* within the said County, or to any or either of them, *Greeting.* Whereas *T. P.* of *B.* aforesaid ^{addition} was served with Summons granted by me *J. D.* Esq; One of His Majesty's Justices of the Peace for the County aforesaid, for his Appearance before me on the Day of to Answer to *E. L.* of *M.* ^{addition} in a Plea of And whereas the said *T. P.* hath made default in his said Appearance : These are therefore in His Majesty's Name to will and require you to take the Body of the said *T. P.* (if he may be found in your Precinct) and him safely keep, so that he may be had before me the said *J. D.* at my Dwelling House in *B.* on the Day of at of the Clock in the noon, as well to Answer the said *E. L.* of his Plea aforesaid, as for his said Contempt ; and make true Return of this Writ, with your Doings therein unto my Self at or before the said Day of Dated at *B.* aforesaid, the Day of In the Year of His Majesty's Reign. *Annoque Domini,* *J. D.*

Capias or Attachment.

S—J. **T**O the Sheriff or Marshal of the said County of *S.* or either of their Deputies, or Constables of the Town of *B.* within the said County, or to any or either of them, *Greeting.* In His Majesty's Name you are required to attach the Goods or Estate of *T. P.* of *B.* aforesaid ^{addition} to the Value of *Shillings* ; and for want thereof to take the

Forms of Writs before a Justice.

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the Body of the said *T. P.* (if he may be found in your Precinct) and him safely keep so that he may be had before me *J. D.* Esq; One of His Majesty's Justices of the Peace for the County aforesaid, at my Dwelling House in *B.* on the Day of at of the Clock in the noon; then and there to Answer to *E. L.* of *M.* addition in a Plea of To the Damage of the said *E. L.* (as he saith) the Sum of *Shillings*: As shall then and there appear with other due Damages. Hereof fail not, and make due Return of this Writ and of your doings therein unto my self, at or before the said Day of Dared at *B.* aforesaid, the Day of In the Year of His Majesty's Reign. *Annoque Domini.* *J. D.*

Summons when Goods are attached.

S—J. T. TO *T. P.* of *D.* in the County of *S.* addition Greeting. In His Majesty's Name you are Commanded to appear before me *J. D.* Esq; One of His Majesty's Justices of the Peace for the County aforesaid, at my Dwelling House in *B.* on the Day of at of the Clock in the noon; To Answer unto *E. L.* of *M.* addition in a Plea of Which Plea the said *E. L.* hath commenced to be heard and determined before me: And your Goods or Estate are Attached to the value of *Shillings* for Security to satisfy the Judgment which the said *E. L.* may recover upon the aforesaid Tryal. Fail not of Appearance at your Peril. Dated at *B.* aforesaid the Day of In the Year of His Majesty's Reign. *Annoque Domini,* *J. D.*

Execution of Warrant of Distress.

S—J. W. Illiam the Third by the Grace of GOD, of England, Scotland, France and Ireland, KING. Defender of the Faith, &c. To the Sheriff or Marshal of Our said County of *S.* or either of their Deputies; or Constables of the Town of *B.* within Our said County, or any or either of them Greeting. Whereas *E. L.* of *M.* addition on the Day of before *J. D.* Esq; One of Our Justices of the Peace for our County aforesaid recovered Judgment against *T. P.* of *B.* addition for the Sum of *Shillings* and *Pence*, Debt or Damage, and *Shillings* and *Pence*, for Charges of Suit, as to Us appears of Record; whereof Execution remains to be done. We Command you therefore, That of the Money of the said *T. P.* or of his Goods or Chattels within your Precinct, at the Value thereof in Money, you cause to be levied, paid and satisfied unto the said *E. L.* the aforesaid Sums being *Pounds* *Shillings* and *Pence* in the whole; and also that out of the Money, Goods or Chattels of the said *T. P.* you levy *two Shillings* more for this Writ, together with your own Fees. And for want of such Money, Goods or Chattels of the said *T. P.*'s to be by him shewn unto you, or found within your Precinct, to the Acceptance of the said *E. L.* for satisfying the aforesaid Sums; We Command you to take the Body of the said *T. P.* and him commit unto our Goal in *B.* And we Command the Keeper thereof accordingly to Receive the said *T. P.* into Our said Goal, and him safely to keep, until he pay the full Sums above-mentioned, with your Fees; or that he be discharged by the said *E. L.* the Creditor, or otherwise by Order of Law. Hereof fail not, and make Return of this Writ with your doings therein unto Our said Justice within Sixty Days next coming. Witness our said Justice at *B.* the Day of In the Year of Our Reign. *Annoque Domini,* *J. D.*

And be it further enacted by the Authority aforesaid, That in case the Defendant in any Suit being duly served with a Capias or Attachment, and Return therefore made do not appear by himself, or his Attorney, Judgment shall be entred up against him by Default.

C A A P. XV.

An Act for Regulating of Trials in Civil Causes.

9 W. ca. 2.
Writs, Pleas,
&c. to be in
the English
Tongue.

It is enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That all Writs, Processes, Declarations, Indictments, Pleas, Answers, Replications and Entries, in the several Courts of Justice within this Province, shall be in the English Tongue, and no other.

Circumstan-
tial Errors not
to cause an
Abatement.
Amendments
to be made.

And that no Summons, Process, Writ, Judgment, or other Proceedings in Courts or Course of Justice shall be abated, arrested or reversed for any Kind of circumstantial Errors or Mistakes, where the Person and Cause may be rightly understood and intended by the Court, nor thro' Defect or want of Form only: And the Justices on Motion made in Court, may order Amendment thereof.

Costs to be
granted upon
NonSuits, &c.

And be it further enacted and declared by the Authority aforesaid, That if any Person shall cause Process to be served upon another on pretence of Debt, Trespass; or for any other Matter or Cause, and discontinue his Suit, or be Non-Suit, the Justices of the Court where such Process is returnable, shall give Judgment for the Defendant to recover reasonable Costs.

Judgment by
Default.

And in Case the Defendant in any Suit being duly served with Process, and Return thereof made into the Court where the same is Returnable, do not appear by himself or his Attorney, his Default shall be recorded, and Judgment be entred up against him thereupon; unless before the Jury be dismissed he shall come into Court, and move for a Trial; in which Case he shall be admitted thereto, upon paying down to the adverse Party the Costs he has been at so far; and the Plaintiff shall pay for entering the Action anew.

Justices of
Courts to
make necessa-
ry Rules for
Practice.

And further it is enacted, That as well the Justices of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, as the Justices of the Inferiour Court of Common Pleas, and Justices of the Court of General Sessions of the Peace, in each respective County within this Province, be and are hereby respectively impowred, to make necessary Rules for the more orderly practising in such Court; so as that the said Rules be not repugnant to the Laws of this Province: As also from Time to Time, to appoint and settle a Clerk to officiate in such Court, and to do all Things proper to that Office; who shall be under Oath well and truly to execute and discharge the same.

To appoint
their Clerk.

Town Clerk
to grant Sum-
mons for
Witnesses.

And be it further enacted by the Authority aforesaid, That the Clerk of each Town respectively within this Province, as well as the Clerks of the several Courts aforesaid, may, and are hereby respectively impowred to grant Summons for Witnesses in Civil Causes, directed to the Party to be summoned for Witnesses; which Summons shall be made out in Form following. *That is to say:*

S—ff. To A. B. of C. addition Greeting:

Summons.

YOU are hereby Required in His Majesty's Name, to make your Appearance before the Justices of Our Lord the KING, at the next Court of to be holden at *B.* within and for the County of *S.* on the *Tuesday* of to give Evidence of what you know relating to an Action or Plea of then and there to be heard and tried betwixt *A. B.* of *C.* addition Plaintiff, and *D. E.* of *F.* add t on Defendant:

Hereof fail not, as you will answer your Default under the Pains and Penalty in the Law in that Behalf made and provided. Dated at *B.* the Day of In the Year of His Majesty's Reign. *Annoque Domini, A. D.* Clerk.

Penalty on
Witnesses for
not appear-
ing.

And if any Person or Persons who shall be served with lawful Process, or Summons to testify, depose or give Evidence concerning any Cause or Matter depending in any of the Courts aforesaid, and having tendred unto him or them such reasonable Sum or Sums of Money for his or their Costs and Charges, as having Regard to the Distance of the Places is necessary to be allowed in that Behalf, do not appear according to the Tenor of the Process or Summons, hav-
ing

Review in Civil Causes.

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ing no lawful or reasonable Lett or Impediment to the contrary ; that then the Party so making Default, shall for every Offence lose and forfeit *forty Shillings*; and shall yield further Recompence to the Party aggrieved, according to the Loss and Hindrance that he shall sustain by Reason of the Non-appearance of such Witness or Witnesses : The said Forfeiture and Damages to be recovered by the Party so grieved against the Offender or Offenders, by Action of Debt in the Inferiour Court of Common Pleas within the same County ; wherein no Essoign, Protection or Wager of Law to be allowed. Damages how to be recovered.

And *two Shillings* per Diem shall be accounted due Satisfaction to any Witness for his Travel and Expences ; and no more to be allowed in Civil Causes : Witnesses Allowance!
And if such Witness live within three Miles of the Place of the Court's sitting whereto he is summoned, and be not to pass any Ferry, than *one Shilling and six Pence* per Diem shall be accounted sufficient.

And no Person serving as a Justice, Juror, Witness or otherwise ; shall be required to use any other Ceremony in taking of their respective Oaths, than lifting up the Hand as has been accustomed. Ceremony to be used in Swearing.

And it is further declared and enacted by the Authority aforesaid, That it shall be in the Liberty of the Party aggrieved, at the Judgment given in any Inferiour Court of Common Pleas, to Appeal therefrom unto the next Superiour Court of Judicature to be held within or for the same County. And the Party so appealing, before his Appeal be allowed shall give sufficient Security to prosecute the same with Effect : and to answer and pay all intervening Damages occasioned to the Appellee by his being delayed, with additional Costs, in Case the Judgment be affirmed. And Execution shall be stayed and suspended, until after the Trial had upon the Appeal. Liberty of Appeal from the Inferiour Court.
Sureties for Appeal how far liable.
Execution stayed.

And further it is enacted, That the Party Appellant shall produce and give in to the Court where such Appeal is to be tried, attested Copies of the Writ, Judgment, and of all the Evidences filed in the Inferiour Court. And each Party shall be allowed the Benefit of any new and further Plea and Evidence. Appellant to produce the Case.
Each Party to have benefit of new Plea and Evidence.

Saving always the Liberty of Appeal unto His Majesty in Council, as by His Majesty's Royal Charter in that Behalf is provided.

And be it further enacted by the Authority aforesaid, That Execution in any Case shall not be granted until the Expiration of twenty four Hours next after the entering up of Judgment. Execution not to be granted in 24 Hours.

And that no Person imprisoned upon mean Process, shall be held in Prison upon such Process above the space of thirty Days next after the rising of the Court where the same is Returnable, notwithstanding Judgment thereupon recovered ; unless such Person be continued there by having his Body taken in Execution : Nor shall the Prison Keeper discharge any such Prisoner having Judgment entred up against him, within the said space of thirty Days after the Court's rising, to the Intent his Body may be taken in Execution, but by special Order of the Party at whose Suit he stands committed, signified in writing under his Hand. Persons imprisoned on mean Process, not to be discharged till 30 Days after Judgment.

Nor shall any Goods or other Estate attached to Respond the Judgment that shall be recovered on Suit brought, be released or discharged from such Arrest until the Expiration of thirty Days next after rendering of Judgment for the Plaintiff in such Suit, to the Intent that he may take the same by Execution for satisfying of such Judgment in Whole or in Part, so far as the Value thereof can extend, if he think fit ; unless the Judgment be sooner or otherwise satisfied : Any Law, Usage or Custom to the contrary notwithstanding. Goods or Estate attach'd, not to be released in 30 Days after Judgment.

C H A P. XVI.

An Act for Review in Civil Causes.

TO the Intent there be no failure of Justice ; and that the Party against whom Suit is brought, be not fore-closed by a Judgment given against him ; when as upon a new Trial he might be better provided of new and further Evidence for his Defence ; which probably could not be obtained in so short Time as by Law is allowed for a Trial by Appeal : 7 G. ca 4.
6 G. 2. ca. 3.
24 G. 2. ca. 1, & 7.

We

Review of
Judgment
given in the
Superiour or
Inferiour
Court.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall be in the Liberty of the Party aggrieved at the Judgment given in any Inferiour Court of Common Pleas, or in the Superiour Court of Judicature respectively, by new Process to Review the said Cause once in each Court.

Party Review-
ing to bring
the Case.

And the Party bringing such Action of Review, shall produce and present attested Copies of the Writ, Judgment and of all the Evidences on File in the former Trial; and each Party shall have the Benefit of any new and further Plea and Evidence.

No Review
to be bro't
after 3 Years.

Provided, No Action of Review shall be brought after the Expiration of three Years from the Time of rendering the Judgment, to be reviewed.

Saving.

Saving unto any Infant, Feme Covert, or Person *non compos mentis*, Imprisoned, in Captivity, or out of this Province the Term of three Years next after their coming of full Age, or such Imperfection removed, to bring his or her Action of Review; and not afterward.

Execution not
to be staid by
reason of Re-
view.

And it is further enacted, That Execution shall not be stayed or suspended, for or by Reason of any Process of Review: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. XVII.

An Act relating to Attorneys.

5 A. ca. 1.
13 A. ca. 1.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Plaintiff or Defendant in any Suit, may Plead or defend his Cause by himself in his proper Person; or with the Assistance of such other Person as he shall procure.

And be it further enacted, That all Attorneys commonly practising in any of the Courts of Justice within this Province, shall be under Oath, which Oath shall be administered to them by the Clerk in open Court before the Justices of the same, at the Time of their being admitted to such Practice; in the Tenor following. *That is to say*;

Attorney's
Oath.

YOU shall do no Falshood, nor consent to any to be done in the Court, and if you know of any to be done, you shall give Knowledge thereof to the Justices of the Court, or some of them; that it may be reformed. You shall not willingly and willingly, promote, sue or procure to, be sued any false or unlawful Suit nor give Aid or Consent to the same. You shall delay no Man for Lucre or Malice. But you shall use your self in the Office of an Attorney within the Court, according to the best of your Learning and Discretion, and with all good Fidelity as well to the Court as to your Clients. So help you GOD.

Fee.

And the Fee to be allowed for an Attorney in the Superiour Court of Judicature, shall be *twelve Shillings*; and in the Inferiour Court of Common Pleas *ten Shillings*, and no more: And but one Attorney to be paid for in any Case. And none but such as are allowed and sworn Attorneys as aforesaid, shall have any Fee taxed for them in Bills of Cost: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

C H A P. XVIII

An Act prescribing the Form of a Warrant for collecting of Town Assessments, &c.

4 G. 2. ca. 1.
30 G. 2. ca. 1.

BE it enacted and ordained by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Warrant to be issued by the Select-Men or Assessors of the respective Towns, for the collecting and gathering in of Town Rates or Assessments, shall be made in the Form or Tenor following.

That is to say:

S—J.

Providing in Case of Sickneſs.

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S—ſſ. To the Conſtable or Conſtables of the Town of A. within the County of S. and every of them, Greeting;

IN His Maſteſty's Name you are required to levy and collect of the ſeveral Perſons named in the Liſt herewith committed unto you, each one his reſpective Proportion (therein ſet down) of the Sum total of ſuch Liſt; being a Tax or Aſſeſſment granted and agreed upon by the Inhabitants of the ſaid Town of *A.* regularly aſſembled, for defraying of the neceſſary Charges ariſing within the ſame: And to deliver and pay in the Sum and Sums which you ſhall ſo levy and collect unto *A. B.* Treasuſer of the ſaid Town, (where any ſuch is appointed) or to the Select-Men; or to *C. D.* (who is by them appointed to receive the ſame) and to compleat and make up an Account of your Collections of the whole Sum, at on or before the Day of . . . And if any Perſon or Perſons ſhall neglect or reſuſe to make Payment of the Sum or Sums whereat he or they are reſpectively aſſeſſed and ſet in the ſaid Liſt, to diſtrein the Goods or Chattels of ſuch Perſon or Perſons to the Value thereof, and the Diſtreſs or Diſtreſſes ſo taken, to keep by the ſpace of four Days, at the Coſt and Charge of the Owner; And if the Owner do not pay the Sum or Sums of Money ſo aſſeſſed upon him within the ſaid four Days, then the ſaid Diſtreſs or Diſtreſſes ſo taken, you are to expoſe and openly ſell at an Out-cry, for Payment of the ſaid Money and Charges: Notice of ſuch Sale being poſted up in ſome publick Place within the ſame Town, twenty four Hours before Hand: And the Over-plus coming by the ſaid Sale (if any be) beſides the Sum or Sums of the Aſſeſſment and the Charges of taking and keeping of the Diſtreſs and Diſtreſſes, to be immediately reſtored to the Owner. And for want of Goods or Chattels whereon to make Diſtreſs, you are to ſeiſe the Body or Bodies of the Perſon or Perſons ſo reſuſing, and him or them commit unto the Common Goal of the ſaid County; there to remain until he or they pay and ſatisfy the ſeveral Sum or Sums whereat they are reſpectively aſſeſſed as aforeſaid; unleſs upon Application made to the Court of General Sessions of the Peace, the ſame or any Part thereof ſhall be abated. Dated at *A.* the Day of . . . in the Year of His Maſteſty's Reign. *Annoque Domini,*

And be it further enacted by the Authority aforeſaid, That when the Officer appointed for collecting any Rates or Aſſeſſments by Virtue of ſuch Warrant as aforeſaid, ſhall ſeiſe the Body of any Perſon or Perſons for want of Goods or Chattels whereof to make Diſtreſs, and ſhall commit him or them to Priſon; he ſhall give an atteſted Copy of his Warrant unto the Keeper of the Priſon, and thereupon certify under his Hand the Sum or Sums ſuch Perſon or Perſons are to pay as their Proportion to the Aſſeſſment, and that for want of Goods or Chattels whereon to make Diſtreſs, he has ſeiſed his or their Bodies: And ſuch atteſted Copy with the Certificate thereon under the Hand of the Officer, ſhall be a ſufficient Warrant to require the Priſon Keeper to receive and hold ſuch Perſon or Perſons in Cuſtody, until he or they ſhall pay their Rates or Aſſeſſments as aforeſaid, and Charges of Imprifonment: with *one Shilling* for the Copy of the Warrant.

Atteſted Copy
of the War-
rant, to be gi-
ven up on
Commitment.

C H A P. XIX.

An Act providing in Caſe of Sickneſs.

25 **E**t it enacted by the Lieutenant Governour, Council and Re-
preſentatives in General Court aſſembled, and by the Autho-
rity of the ſame, That for the better preventing the ſpreading of
Infection, when it ſhall happen any Perſon or Perſons coming from Abroad or
belonging to any Town or Place within this Province to be viſited; or that late
before have been viſited with the Plague, Small-Pox, peſtilential or malignant
Fever, or other contagious Sickneſs, the Infection whereof may probably be
communicated to others; the Select-Men of ſuch Town be, and hereby are
impowred to take Care, and make effectual Proviſion in the beſt Manner they
can,

Additional
Act.
24 G. 2. ca. 6.
30 G. 2. ca. 2.
31 G. 2. ca. 3.

Select-men to
provide for
the Sick.

can, for the Preservation of the Inhabitants ; by removing and placing such sick or infected Person or Persons, to and in a separate House or Houses, and by providing of Nurseries, Tendances and other Assistance, and Necessaries for them ; at the Charge of the Parties themselves, their Parents or Masters (if able) or otherwise at the Charge of the Town or Place whereto they belong.

Towns to pay
the Charge of
their own Sick.

And in Case it happen any Person or Persons to be visited with Sickness in any other Town or Place than that whereto they belong, and thereby occasion a Charge to such Town ; the Select-Men shall lay the Account thereof before the Justices in Court of General Sessions of the Peace within the County where the Town lies, whereto such Person or Persons belong ; and the Justices having adjusted the Account of such Charge, and allowed so much thereof as they judge reasonable, shall order Payment thereof to be made by the Treasurer of such Town ; when the Persons themselves, their Parents or Masters are unable to pay the same. And when it shall happen such indigent Persons not to be Inhabitants, or belonging to any Town or Place within this Province, and the proper Charge thereof in Case they need Relief ; then the Charge of their Sick-ness shall be defrayed out of the publick Treasury of the Province, by Warrant from the Governour, with the Advice and Consent of the Council.

Justices to
make but
Warrant for
impressing
Lodgings &c.

And be it further enacted by the Authority aforesaid, That if need so require, any two Justices of the Peace may make out a Warrant directed to the Sheriff of the County or his Deputy, or Constables of the Town or Place where any such sick Person or Persons shall be ; requiring them or any of them in His Majesty's Name, with the Advice and Direction of the Select-Men of the same, to impress and take up convenient Housing, Lodging, Nurseries, Tendances and other Necessaries, for the Accommodation, Safety and Relief of the Sick.

Justices im-
powred to
prevent Per-
sons coming
on Shoar from
any Vessels
visited with
Sickness.

And be it further enacted by the Authority aforesaid, That if any Person or Persons, Seamen or Passengers belonging to or transported in any Ship or Vessel, arriving to any Port or Harbour within this Province happen to be visited with the Plague, Small-Pox, pestilential or malignant Fever during the Voyage ; or to come from any Place where such Sickness prevails and is common, any Justice or Justices of the Peace within the County to whom the Notice or Information thereof shall be given, shall forthwith take Care to prevent and restrain all Persons belonging to, or transported in such Ship or other Vessel from coming on Shoar ; and if any be before on Shoar, to send them on Board again ; as also to restrain Persons from going on Board such Ship or Vessel : And to that End may make out a Warrant directed to the Sheriff of the County or his Deputy, or Constables of the same Town ; who are accordingly impowred and required to execute the same. And such Justice or Justices, are forthwith to transmit the Intelligence thereof to the Governour or Commander in Chief for the Time being ; who is hereby impowred, with the Advice and Consent of the Council, to take such further Order therein as they shall think fit, for preventing the spreading of the Infection.

Intelligence
to be trans-
mitted to the
Governour.

C A A P. XX.

An Act in Addition to an Act for the Settlement and Support of Schools and School-Masters.

4 W & M.
ca. 11.
4 G. ca. 2.
11 A. ca. 1.

WHEREAS it is by Law appointed, " That every Town within this Province having the Number of fifty Householdors or upwards, " shall be constantly provided of a School-Master, to teach Children " and Youth to read and write. And where any Town or Towns have the " Number of one Hundred Families or Householdors, there shall also be a Gram- " mar School set up in every such Town ; and some discreet Person of good " Conversation, well instructed in the Tongues, procured to keep such School. " Every such School-Master to be suitably encouraged and paid by the Inha- " bitants. *The Observance of which wholesome and necessary Law is shame- fully*

Purchases of Lands from the Indians.

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fully neglected by divers Towns and the Penalty thereof not required, tending greatly to the Nourishment of Ignorance and Irreligion; whereof grievous Complaint is made :

For Redress of the same :

Be it enacted and declared by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Penalty or Forfeiture for Non-observance of the said Law, shall henceforth be *twenty Pounds* per Annum; and so proportionably for a lesser Time that any Town shall be without such settled School-Master respectively; to be recovered, paid and employed in Manner, and to the Use as by Law is directed : Any Law, Usage or Custom to the contrary notwithstanding.

Penalty for Non-observance of the Law.

Every Grammar School-Master to be approved by the Minister of the Town and the Ministers of the two next adjacent Towns, or any two of them; by Certificate under their Hands.

Grammar School-Masters to be approved.

And be it further enacted, That no Minister of any Town shall be deemed, held or accepted to be the School-Master of such Town within the Intent of the Law.

No Minister to be a School-Master.

And the Justices of Peace in each respective County are hereby directed to take effectual Care, that the Laws respecting Schools and School-Masters, be duly observed and put in Execution. And all Grand Jurors within their respective Counties, shall diligently Inquire and make Presentment of all Breaches and Neglect of the said Laws, that so due Prosecution may be made against the Offenders.

Justices to see to the Observance of the Law.

Grand Jurors to inquire and present Breaches thereof.

C H A P. XXI.

An Act to prevent and make void Clandestine and Illegal Purchases of Lands from the Indians.

*W*HEREAS the Government of the late Colonies of the Massachusetts-Bay and New-Plymouth; to the Intent the native Indians might not be injured or defeated of their just Rights and Possessions, or be imposed on and abused in selling and disposing of their Lands; and thereby deprive themselves of such Places as were suitable for their Settlement and Improvement : Did by an Act and Law passed in the said Colonies respectively many Years since, inhibit and forbid all Persons purchasing any Lands of the Indians, without the Licence and Approbation of the General Court. *Notwithstanding which, sundry Persons for private Lucre have presumed to make Purchases of Lands from the Indians, not having any Licence or Approbation as aforesaid for the same, to the Injury of the Natives, and great Disquiet and Disturbance of many of the Inhabitants of this Province in the peaceable Possession of their Lands and Inheritances lawfully acquired :*

Preamble

Therefore for the vacating of such illegal Purchases, and preventing of the like for the future :

Be it enacted and declared by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That all Deeds of Bargain, Sale, Lease, Release, or Quit-Claim, Titles and Conveyances whatsoever, of any Lands, Tenements or Hereditaments within this Province, as well for Term of Years as for Ever, had, made, gotten, procured or obtained, from any Indian or Indians by any Person or Persons whatsoever, at any Time or Times since the Year of Our Lord, One Thousand six Hundred Thirty-three, without the Licence or Approbation of the respective General Courts of the said late Colonies, in which such Lands, Tenements or Hereditaments lay; and all Deeds of Bargain and Sale, Titles and Conveyances whatsoever of any Lands, Tenements or Hereditaments within this Province, that since the Establishment of the present Government, have been, or shall

All Deeds of Bargain, Sale, &c. from Indians without Licence, Vacated.

hereafter be had, made, obtained, gotten or procured, from any *Indian* or *Indians*, by any Person or Persons whomsoever, without the Licence, Approbation and Allowance of the Great and General Court or Assembly of this Province for the same, shall be deemed and adjudged in the Law to be Null, Void and of none Effect.

Proviso for
Towns or
Persons ha-
ving Title de-
rived from
the General
Court.

Provided nevertheless, and it is notwithstanding hereby Enacted and Declared, That all such Purchases, Releases and Titles, heretofore had or obtained from any *Indian* or *Indians*, by any Town or Person whatsoever, of any Lands or Hereditaments which such Town or Person also hold and enjoy by Virtue of any Grant or Title made or derived by or from the General Court of either of the Colonies aforesaid: And all Releases, Purchases, Conveyances and Titles, which any Town or Person shall hereafter make, procure or obtain of any *Indian* or *Indians*, for any Lands, Tenements or Hereditaments, Granted or that shall be Granted by the General Court to such Town or Person before such Purchase or Title made or obtained from any *Indian* or *Indians*, shall be, and hereby are excepted out of this Act, and be held for Good and Valid in the Law: Any thing herein contained notwithstanding.

Saving for
Lands lying
Eastward of
Piscataqua
River, at *Mar-
tha's-Vineyard*
and *Nantucket*.

Provided also, That if any Person or Persons, or Town in this Province to the Eastward of *Piscataqua* River, have heretofore purchased or obtained any *Indian* Deed or Title for any Lands, Tenements or Hereditaments in those Parts; or if any Person or Persons have heretofore purchased or obtained any *Indian* Deed or Title for any Lands, Tenements or Hereditaments in the Island of *Capawack*, alias *Martha's-Vineyard*, or the Dependencies thereof, now known by the Name of *Dukes County*, or in the Island of *Nantucket*, for further Confirmation of their other lawful Titles and Possessions: This Act, or any Thing therein contained shall not extend or be construed to extend in any wise to vacate or make void such *Indian* Deed or Title: Any Thing herein contained to the contrary notwithstanding.

Penalty on
Persons that
shall make
Purchases
without
Licence.

And be it further enacted by the Authority aforesaid, That if any Person or Persons whatsoever, shall after the Publication of this Act, presume to make any Purchase, or obtain any Title from any *Indian* or *Indians* for any Lands, Tenements or Hereditaments within this Province, contrary to the true Intent and Meaning of this Act; such Person or Persons so offending, and being thereof duly convicted in any of His Majesty's Courts of Record within this Province, shall be punished by Fine and Imprisonment, at the Discretion of the Court where the Conviction shall be; not exceeding double the Value of the Land so purchased, nor exceeding six Months Imprisonment.

Leases of
Land from
the *Indians* to
be approved
by the Court
of Sessions of
the Peace.

Proviso for
Sale, from *In-
dian* to *Indian*.

And be it further enacted by the Authority aforesaid, That all Leases of Land that shall at any Time hereafter be made by any *Indian* or *Indians* for any Term or Terms of Years, shall be utterly void and of none Effect; unless the same be made by and with Licence first had and obtained from the Court of General Sessions of the Peace in the County where such Lands lie.

Provided nevertheless, That nothing in this Act shall be taken, held or deemed in any wise to hinder, defeat or make void any Bargain, Sale or Lease of Land made by one *Indian* to another *Indian* or *Indians*.

C H A P. XXII.

An Act for establishing of a Naval Office, and for ascertaining of the Fees.

BE it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That in every Sea Port within the Province, there be an Office kept, to be called and known by the Name of the Naval Office, as has been accustomed; for the entring and clearing of all Ships and other Vessels trading to or from this Province. And the Fees to be demanded and received in the said Office shall be these following, and no other. *That is to say:*

For

Addition to the Act of the Militia.

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For entring of Ships and Vessels trading to this Province from Abroad, (except from the Provinces and Colonies of Pennsylvania, New-York, East and West-Jerseys, Connecticut, Rhode-Island, and New-Hampshire) One Shilling each.	l.	s.	d.
And for Vessels trading to or from either of the said Provinces or Colonies, four Shillings per Annum; or six Pence Entry and six Pence Clearing each Voyage, at the Master's Choice.	00	01	00
For examining and recording Certificates that Bond is given according to the Acts of Navigation, two Shillings.	00	02	00
For Bond given according to the Acts of Navigation.	00	02	00
For Clearing and Certificate of the Lading, two Shillings & six Pence.	00	02	06

And be it further enacted by the Authority aforesaid, That if any Person employed in the said Office, shall demand or take any other or greater Fees than by Law are allowed, or shall illegally delay and defer the entring or clearing any Ship or other Vessel; such Officer so offending shall be liable to double Costs and Damages, being thereof duly convicted in any of His Majesty's Courts of Record within this Province.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the Massachusetts-Bay in New-England, Begun and held at Boston upon Wednesday the twenty-seventh of May, 1702.

C H A P. I.

An Act in Addition to the Act for Regulating the Militia, and for Explanation of a Clause in the said Act.

WHEREAS in the Enumeration of Persons exempted from Trainings by the Act intituled, An Act for Regulating of the Militia, Persons *Lame* 5 *W. & M.* or otherwise disabled in Body (producing Certificate from two able Chyrurgeons) are included. And whereas divers Persons fit and able for Service by corrupt and fallacious Means do obtain such Certificates from some Practitioners in Chyrurgery in elusion of the Law, and contrary to the true Intent and Meaning thereof; and thereupon presume to neglect their Duty, and plead an Exemption with Disregard to their Officers, having no orderly Dismissal from them:

For Remedy whereof:

Be it enacted and declared by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person or Persons whatsoever shall at any Time hereafter, by Virtue of any Certificate already given, or to be given by two Chyrurgeons as aforesaid, be excused or exempted from bearing Arms, and attending Trainings, and other military Exercises and Duty in the Troop or Company whereto they respectively belong, and are enlisted; or from Impresses for Her Majesty's Service, unless for just Cause they first obtain an orderly Dismissal under the Hands of the Commission Officers of such Troop or Company. And in Case they unreasonably refuse the same, then of the first Field Officer of the Regiment whereof such Troop or Company is Part; or of the Captain General or Commander in Chief, for the Time being: Any Law, Usage or Custom to the contrary notwithstanding.

Lame Persons
&c. not to be
dismiss'd from
Training, &c.
without Ap-
probation of
their Officers.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-seventh Day of *May*, 1702. And continued by several Prorogations until Thursday the fifteenth of *October* following; and then sat at *Cambridge*.

C H A P. II.

An Act to prevent Charges arising upon the County for Prisoners committed for Theft.

5 A. ca. 1.

Preamble.

INASMUCH as it often happens, That Persons convicted of Theft, and sentenced to make Restitution to the Party injured as the Law directs, are held long Time in Prison; having not wherewith to satisfy their Creditors, or to pay for their Keeping otherwise than by Service; thereby occasioning great Charge to arise upon the County:

For Remedy whereof:

Prisoners for Theft not to be held more than 30 Days after Sentence unless, &c.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and it is enacted by the Authority of the same, That hence-forth no Person or Persons convicted and sentenced for committing of Theft, shall be held, or continued in Prison for and on account of Restitution or Damages awarded to the Party injured, for more than the Space of thirty Days next after such Judgment or Sentence given; Unless the Creditor will become engaged, or give Caution to the Keeper of the Prison to pay and satisfy his Charge and Expence in keeping of such Prisoner both for Time past and future, not exceeding *Three Shillings per Week*.

Keepers Power to discharge the Prisoner in Case.

And in Case the Creditor shall refuse or neglect so to do and shall not dispose of or take such Prisoner in Service; or otherwise release him, the Keeper shall no longer be chargeable with such Prisoner, but may set him at Liberty; Any Law, Usage or Custom to the contrary in any wise notwithstanding. And in every such Case the Prisoner shall pay and satisfy his own Fees and Charges; and if he be unable, then upon Application made by the Keeper to any two Justices of the same Court *Quorum Unus*; such two Justices are hereby impowred to adjust and determine the Sum to be paid, and to order and enjoin the Prisoner to make Satisfaction by Service for such reasonable Time as they shall assign, for which Term the Keeper may dispose of him in Service to any of Her Majesty's *English* Subjects.

And it is further enacted by the Authority aforesaid, That if any Action, Bill, Suit or Information shall be commenced or prosecuted against the Keeper of such Prison for what he shall do in pursuance of this Act; he may plead the general Issue, Not Guilty; and upon Issue joyned may give this Act and the special Matter in Evidence; And if the Plaintiff or Prosecutor shall become Non-suit, or suffer a Discontinuance; or if Verdict pass against him, the Defendant shall recover Costs and Damages for the Molestation.

C H A P. III.

An Act more effectually providing for the Support of Ministers.

Preamble.

WHEREAS in some few Towns and Districts within this Province, divers of the Inhabitants are Quakers, and others irreligious Persons, averse and opposite to the public Worship of God, and to a learned orthodox Ministry; and find out Ways to elude the Laws provided for the Support of such, and prevent the good Intentions thereof; to the Encouragement of Irreligion and Prophaneness:

For

Support of Ministers.

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For Remedy whereof : And in further Addition to the Act, Intituled, *An Act for the Settlement and Support of Ministers and School-Masters*, Made in the Fourth Year of the Reign of King William and Queen Mary : And the Additions thereto heretofore made ;

4 W. & M.
ca. 11.
4 & 5 W. &
M. ca. 20.
7 W. ca. 9.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often from Time to Time, as Information or Complaint shall be made to the Court of General Sessions of the Peace in any County, that the Minister of any Town or District within such County, qualified as aforesaid, is not suitably encouraged, supported or maintained, according to his Contract or Agreement made with the Inhabitants ; or according to the Allowance and Maintenance ordered him by the Court of General Sessions of the Peace ; as the Law directs where there is no such Contract, or that the same happen to be expired, by Reason that the Select-Men or other Assessors of such Town or District, do refuse or neglect to assess and raise such Maintenance, and cause the same to be levied upon the Inhabitants ; or that Payment thereof is withheld from the Minister : In every such Case, the said Court is hereby directed and further impowred, over and above the imposing of the Fine by Law set upon such delinquent Select-Men or Assessors, to appoint three or more sufficient Freeholders within the same County, to assess and apportion the Sum agreed or set for the yearly Support and Maintenance of such Minister, either by Contract or Court Order, upon the Inhabitants of such Town or District, in Manner as is directed for the raising other publick Charges ; and to present the List of such Assessment unto two Justices of the Peace of the same County, *Quorum Unus* ; who are hereby impowred and required to make out and affix a Warrant thereto, directed to the Constables of such Town or District, in Form as is by Law prescribed for the levying and collecting of Town Rates or Assessments, *Mutatis Mutandis* ; requiring them to collect and levy the Sum total of the said List, and pay in the same unto the Minister ; or to such Person as shall be appointed by the Sessions to receive the same to his Use ; And such Constables failing of a due Observance and Execution of such Warrant, shall incur the like Pains, Penalties and Forfeitures, as for not collecting and paying in any other Rates or Assessments to them committed. And the Court of General Sessions of the Peace is further directed and impowred, to order meet Satisfaction to be made unto the Assessors so appointed, for their Pains and Trouble, out of the Fines set upon the delinquent Select-men or Assessors as aforesaid. And the remainder of the said Fines, (if any be) to be paid to the County Treasurer for defraying the necessary Charges of the County : Any Law, Usage or Custom to the contrary in any wise notwithstanding.

Court of General Sessions
Power to appoint Assessors.

13 W. ca. 20.

Two Justices
to make out a
Warrant for
collecting.

Satisfaction to
be given to
the Assessors.

And be it further enacted by the Authority aforesaid, That the Inhabitants of each District or Precinct respectively, regularly set off from any Town, shall be, and are hereby impowred to name and appoint a Clerk, as of right Towns by Law have ; as also Assessors for the assessing and raising a Maintenance and Support for the Minister of such District or Precinct ; and to make out a Warrant in Form as by Law prescribed for Town Rates or Assessments, directed to the Constable of the Town or District, for the collecting and levying of the same ; who is required to execute such Warrant accordingly. And in Case the Assessors so appointed, shall refuse or neglect that Service, the Select-men of the Town from whence such District or Precinct was set off, shall and are hereby required to assess the Inhabitants of the same, the Sum agreed upon or set for Maintenance of the Minister thereof.

Inhabitants of
Districts their
Power.

4 G. ca. 1.
7 G. ca. 7.

Commission of Sewers.

C H A P. IV.

An Act for appointing Commissioners of Sewers.

Preamble.

WHEREAS great Quantities of Meadows and Low Grounds belonging to sundry Persons in several Towns, are spoiled by the Overflowing of Rivers, Brooks and Waters occasioned by Banks and Stoppages in their Courses, which by Industry may be removed, to the Benefit and Profit of the Owners: And also much Meadow and Pasture Lands might be gained out of Swamps and other rough and unprofitable Grounds, by drowning and dreyning the same.

To the intent therefore that the Owners of such Lands and Meadows may be encouraged, and enabled to remove such Obstructions as occasion such Overflows; and to damm and flow their Swamps and other Grounds, and thereby bring them to Meadow or Pasture, that they may be made profitable to them:

Governour &
Council to
grant Com-
missions of
Sewers.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That it shall be in the Power of the Governour and Council from Time to Time, upon Request to them made by the major Part of the Proprietors of any such Lands, to grant Commissioners of Sewers to such and so many able and discreet Persons, as to them shall seem meet, for the clearing and removing of the Banks and Obstructions of the Passages of the Waters in Rivers, Brooks or Ponds, that occasion the Overflows and Drowning of Meadows and low Lands; and also for the damming and flowing of Swamps and other unprofitable Grounds, and dreyning of them. By which Commissions, the said Commissioners shall be impowred to meet and convene together from Time to Time as Occasion may require, to View, Consider, Consult and Contrive such Ways and Methods for the clearing and removing the Obstructions aforesaid; and for the drowning and dreyning of Swamps and other unprofitable Grounds: And to employ Workmen and Labourers for such reasonable Wages as may be agreed on, for the effecting the Premises; and from Time to Time to assess and tax all such Persons as may or shall be Owners of such over-flowed Lands or Meadows, or such unprofitable Swamps and Lands as aforesaid, towards the Charge thereof; having regard to each Person's quantity of Land and Benefits to be received thereby, as equally according to their best Judgment as they can; and also to appoint and swear a Collector or Collectors, for the collecting and gathering and paying in the same to such Persons, as by the said Commissioners shall be appointed to receive it; with Powers to distrain all such Persons as shall neglect or refuse to make Payment of his, her or their Parts or Proportion set and assessed as aforesaid, in such Manner as in the Province Rates and Taxes by Law may be done, and to call before themselves the said Collector or Collectors to Account for his or their Betrusements, with Reference to the Premises.

Commission-
ers Power.

And further be it enacted by the Authority aforesaid, That the said Commissioners shall be Sworn for the faithful Discharge of their Trust, and shall receive such Salaries out of the said Assessments, for their Time and Expences touching the Premises, as the Governour and Council shall appoint; unto whom the said Commissioners shall be accountable when they shall be thereunto required.

Commission-
ers to be
Sworn.

And be it further enacted by the Authority aforesaid, That in case it shall so happen that any Proprietor of any such Lands or Meadows to be drowned or Dreyned as aforesaid, shall be unable; or otherwise neglect to pay his, her, or their Part or Proportion of the said Rates or Assessments; it shall and may be lawful to and for the other Proprietors concerned therein to pay the said Assessment, and to hold the said Lands and Meadows so long until the Rates and Profits to be received of those Lands may Reimburse them; and the Commissioners aforesaid shall determine the Time how long.

Provided always, That it shall be in the Liberty of any Person aggrieved at any Procedure had or made by the said Commissioners, or any others in pursuance of this Act, to appeal therefrom unto the Governour and Council for Relief.

C H A P.

Fishery. Money.

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C H A P. V.

An Act for the Reviving and Re-enacting a Clause in the Act, Intituled An Act for the Regulating and Encouragement of Fishery ; that hath been for some Time Repealed by the General Assembly.

WHEREAS in the second Paragraph of the said Act, It is enacted, ^{4 W. & M. ca. 15.}
 " That henceforth no Mackrel shall be caught (except for spending
 " whilst fresh) before the first of July annually : And whereas the
 said Clause by an Act afterwards made and passed by the General Assembly,
 was Repealed and made void ; which said Repeal, and the unseasonable catch-
 ing of Mackrel thereupon, hath been experienced to be very prejudicial to this
 Province :

Be it therefore enacted by His Excellency the Governour, Council and Representatives convened in General Court or Assembly, and it is enact-
 ed by the Authority of the same, That the said Clause above-recited, shall
 be, and is hereby revived and re-enacted : And that henceforth no Person or
 Persons whatsoever, shall presume to catch or cause to be caught any Mackrel
 (except for spending whilst fresh) before the first of July annually ; on Penalty
 of forfeiting all the Mackrel so caught contrary to the true Intent and Meaning
 of this Act, and twenty Shillings per Barrel over and above for each Barrel of
 the same : The one Half of the said Forfeiture to be to Her Majesty, for
 and towards the Support of this her Government ; and the other Half to him
 or them that shall inform and sue for the same, in any of Her Majesty's Courts
 of Record within this Province.

Penalty for
 catching
 Mackrel be-
 fore the first
 of July ; ex-
 cept, &c.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's
 Province of the Massachusetts-Bay in New-England, Begun and
 Held at Boston, on Wednesday the tenth of March 1702.

C H A P. I.

An Act against the Diminishing and Counterfeiting of
 Money.

IT is enacted and declared by His Excellency the Governour, Council
 and Representatives in General Court assembled, and by the Au-
 thority of the same, That every Person duly convicted of counterfeit-
 ing or impairing, diminishing or debasing any of Her Majesty's Coins ; by wash-
 ing, clipping, rounding, filing or scaling of the same, shall be proceeded against
 as a Felon, and suffer the Pains of Death.

Counterfeit-
 ing or Dimi-
 nishing of
 Her Majesty's
 Coins:

And that every Person duly convicted of counterfeiting, or impairing, dimi-
 nishing or debasing any of the Money established to be current Money within
 this Province, according to the Act, For ascertaining the Value of Coins current
 within this Province ; by washing, clipping, rounding, filing or scaling of the
 same, shall be set in the Pillory by the space of one whole Hour ; and have one
 of his Ears nailed thereto ; and also be publicly whipped upon the naked Body
 with so many Stripes as the Court before whom the Conviction shall be, shall
 order ; not exceeding forty, and pay all Charges of Prosecution.

12. & 13. W.
 ca. 4.

Counterfeit-
 ing or Dimi-
 nishing of the
 current Mo-
 ney of the
 Province.

Clippings,
Fillings, &c.

Be it further enacted by the Authority aforesaid, That every Person duly convicted of buying or receiving any clippings, scalings or filings of Money shall forfeit and pay a Fine of *twenty Pounds*; one Moiety thereof unto Her Majesty, for and towards the Support of the Government within this Province; and the other Moiety to him or them that shall inform and sue for the same: and also be imprisoned by the space of three Months.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-sixth of *May*, 1703. And continued upon Adjournment unto Wednesday the thirtieth of *June* following; and then met.

C H A P. II.

An Act relating to Molatto and Negro Slaves.

10 W. ca. 6, & 8.
2 A. ca. 4.

4 A. ca. 6.
6 A. ca. 3.

WHEREAS great Charge and Inconveniencies have arisen to divers Towns and Places, by the Releasing and setting at Liberty Molatto and Negro Slaves:

For Prevention whereof for the future:

Security to be
given for Mo-
latto's or Ne-
groes set free.

Be it declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Molatto or Negro Slave shall hereafter be manumitted, discharged or set free, until sufficient Security be given to the Treasurer of the Town or Place such where Person dwells, in a valuable Sum, not less than *fifty Pounds*; to secure and indemnify the Town or Place from all Charge for or about such Molatto or Negro, to be manumitted and set at Liberty, in Case he or she by Sickness, Lameness or otherwise, be rendered incapable to support him or her self.

None to be
accounted
free, for
whom Secu-
rity is not
given.

And no Molatto or Negro hereafter manumitted shall be deemed or accounted free, for whom Security shall not be given as aforesaid; but shall be the proper Charge of their respective Masters or Mistresses, in Case they stand in need of Relief and Support; notwithstanding any Manumission or Instrument of Freedom to them made or given: And shall also be liable at all Times to be put forth to Service by the Select-Men of the Town.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1703. And continued by Adjournment and Prorogations until Wednesday the twenty-seventh of *October* following; and then met.

C H A P. III.

An Act in Addition to the Act for providing of Pounds, &c.

5 W. & M.
ca. 9.
10 W. ca. 4.

WHEREAS it often happens, that the Owners of Cattle, Sheep or Swine Impounded, notwithstanding due Notice thereof given them, neglect to compound or make Satisfaction for the Trespass and Damage done, but suffer their Creatures to lie long Time in Pound, to the augmenting of Charge, and otherwise proving inconvenient:

For

Disorders in the Night. Executors, &c.

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For Remedy whereof :

Be it declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if the Owner of any meet Cattle, Horses, Sheep or Swine impounded, being duly notified thereof, shall not within the space of forty eight Hours next after such Notice given, replevie his Creatures, or otherwise orderly obtain their Release ; the Party trespassed upon, making Application to a Justice of the Peace, within the same County, for a Warrant of Apprizement ; such Justice is hereby directed and impowred to make out a Warrant to two or more sufficient indifferent Persons, and to administer an Oath unto them, to make a due and equal Apprizement and Estimate of the Value of such Creatures, or so many of them as shall be sufficient to answer the Damage, and all Charges : And the Party damnified may retain and keep the Creatures so apprizd to his own Use, to make Sale of them at his Pleasure rendring the Overplus of the apprizd Value (if any be) to the Owner.

Justice of the Peace to make out a Warrant of Apprizement.

The Impounder to make Sale, or retain to his own Use.

C H A P. IV.

An Act to prevent Disorders in the Night.

WHEREAS great Disorders, Insolences and Burglaries are oftentimes raised and committed in the Night-Time by Indians, Negro and Molatto Servants and Slaves, to the Disquiet and Hurt of Her Majesty's good Subjects : Preamble: 2 A. ca. 2.

For Prevention thereof :

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That no Indian, Negro or Molatto Servant or Slave, may presume to be absent from the Families whereto they respectively belong, or be found Abroad in the Night-Time after nine a Clock ; unless it be upon some Errand for their respective Masters or Owners.

Indian, Negro and Molatto Servants, not to be abroad after nine at Night.

And all Justices of the Peace, Constables, Tything-Men, Watch-Men, and other Her Majesty's good Subjects, being Housholders within the same Town, are hereby respectively impowred to take up and apprehend, or cause to be apprehended any Indian, Negro or Molatto Servant or Slave that shall be found Abroad after nine a Clock at Night, and shall not give a good and satisfactory Account of their Business, make any Disturbance, or otherwise misbehave themselves ; and forthwith convey them before the next Justice of the Peace (if it be not over-late in the Night) or to restrain them in the common Prison, Watch-House, or Constable's Heuse, until the Morning ; and then cause them to appear before a Justice of the Peace, who shall order them to the House of Correction to receive the Discipline of the House ; and then be dismiss'd ; unless they be charged with any other Offence, than Absence from the Families whereto they respectively belong, without Leave from their respective Masters or Owners : And in such Towns where there is no House of Correction, to be openly whipped by the Constable, not exceeding ten Stripes.

If found abroad or misbehave themselves, to be apprehended and sent to the House of Correction.

C H A P. V.

An Act relating to Executors and Administrators.

FOR the better preventing of Executors or Administrators doing of Wrong, or falsifying of the Trust in them reposed : 4 W. & M. ca. 2. 13 G. ca. 4 & 6.

Be it declared and enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That henceforth every Executor named in any Will, taking upon him that Charge by proving of such Will, within the space of three Months next after Probate thereof (or at such further and longer Time, as the Judge of Probate shall see meet to allow, the Circumstances of any Estate requiring

Executors to exhibit an Inventory, or give Bond. 12 G. 2. ca. 7.

Penalty for neglect.

the same) shall exhibit into the Register's Office upon Oath, a full and true Inventory of the whole Estate of the Deceased, so far as is then come to his Hands and Knowledge ; and shall add thereto what and so much as may further afterwards appear : or otherwise shall give Bond, with one or more sufficient Sureties, to pay the Debts and Legacies of the Testator : on pain of forfeiting *five Pounds* per Month, for every Month's neglect thereof afterward, as is by Law provided for not presenting of a Will ; and to be recovered in like Manner.

No Bond to be accepted where the Estate is bequeathed in general.

Provided nevertheless, That in Wills, where, after the Payment of Debts, and of any certain particular Legacy or Legacies, the Residue or Remainder of the Estate, is bequeathed generally to any one or more Persons, other than the Executors themselves ; in every such Case, an Inventory of the Estate shall be presented upon Oath as aforesaid, and no Bond be accepted in Lien thereof : And the Executors shall be liable to Account as Administrators are by Law obliged to do.

Executor being residuary Legatary may sue his Co-Executor.

And any Executor being a residuary Legatary, may bring his Action of Account against his Co-Executor or Executors, of the Estate of the Testator in their Hands ; and may also sue for and recover his equal and rateable Part thereof. And any other residuary Legatary shall have like Remedy against the Executors.

Writs of Attachment, &c. not to go against the Body of the Executor or Administrator.

And be it further enacted by the Authority aforesaid, That all Writs of Attachment and Execution shall run only against the Goods or Estate of the Party deceased in the Hands of his Executor or Administrator, and not against their Bodies ; nor shall any Executor or Administrator be held to special Bail upon mean Process, nor his own proper Goods or Estate be seized, or his Person be arrested, or taken in Execution for the Debts or Legacies of the Testator or Intestate ; but upon Suggestion of a Waste, and Return made by the Sheriff *Nulla Bona*, or *Devastavit*.

Scire Facias to be granted on Suggestion of Waste.

In which Case, a *Scire Facias* shall be issued out of the Clerk's Office of the same Court, against such Executor or Administrator, and *Scire Faci* being returned, if the Executor or Administrator shall make Default of Appearance ; or coming in, shall not shew sufficient Cause to the contrary, Execution shall be adjudged and awarded against him of his own proper Goods and Estate, to the Value of such Waste, where it can be ascertained, otherwise for the whole Sum recovered ; and for want of Goods or Estate, against his Body.

Executors & Administrators to make Payment in Specie.

And be it further enacted and declared, That every Executor or Administrator, shall make Payment of the Debts and Legacies of the Testator or Intestate, in Specie, if such he hath as Assets in his Hands ; and if he hath not the same in Kind, he shall expose the Estate to the Creditor or Legatary, to take his Satisfaction thereof, at his Election, at a due and equal Rate and Value by Apprizers then to be indifferently named and sworn. And where Judgment and Execution shall be awarded for any Debt or Legacy to be paid in Money ; and the Executor or Administrator hath not Money of the Testators or Intestates as Assets in his Hands, the Sheriff shall levy the Goods or Estate of the Deceased, and expose the same to a publick and open Sale for Money, at the best Rate and Value that he can ; and thereout pay such Debt or Legacy, and his own Fees, with the necessary reasonable Charges arising on the Sale, and return the Over-plus (if any be) to the Executor or Administrator : or else shall pay and satisfy the Creditor or Legatary out of the Goods, or Estate levied, if he see Cause to accept the same, at the Value in Money, upon a due and equal Apprizement made by sufficient Persons upon their Oaths, to be indifferently named and appointed for that Purpose : Any Law, Usage or Custom to the contrary in any wise notwithstanding.

The Estate to be exposed to Sale.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston* upon Wednesday the thirty-first of *May*, 1704.

C H A P. I.

An Act of Privilege to the Members of the General Assembly, and Judges of Assize.

UPON Consideration that several Members of the Council and divers of the Representatives live in the remote Parts of the Province, and are occasioned to be at considerable Charge and Expence in travelling and attending of Her Majesty's Service in the Great and General Court or Assembly, over and above their stated Allowance by Law. As also, that the Judges of Assize are put to considerable Charge and Expence in riding of the Circuit : Preamble.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Member of the Council, each Representative of any Town or District, and each Judge of Assize within this Province, during their continuance in the said respective Offices, Employment and Trust ; shall enjoy the Privilege of having one Son or Servant, (such as they shall choose, dwelling in the House) exempted and freed from all Impresses, Detachments, and military Exercises ; except watching in their Turn, as the Law provides : Any Law, Usage or Custom to the contrary notwithstanding. Son or Servant exempted from Military Duty.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirtieth of *May*, 1705. And continued by several Prorogations until Wednesday the twenty-fourth of *October* following, and then met, being their third Session.

C H A P. I.

An Act for Regulating the Assize of Cask for Tar, Pitch, Turpentine and Rozin ; and for preventing Frauds and Deceits in the said Commodities.

Whereas it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the last of *March* next, Anno One Thousand seven Hundred and six, all Cask made for Tar, Pitch, Turpentine and Rozin within this Province, shall be of the Gage and Assize following ; That is to say ; Barrels for Tar, to be thirty two Gallons ; and half Barrels, sixteen Gallons ; and none under : And Cask for Pitch, Turpentine and Rozin, to be of thirty five Gallons ; and made of sound well seasoned Timber. And that each Cooper shall set his distinct Brand-Mark on all his Casks so made for those Commodities. Additional Act, 4 W. & M. ca. 5. 7 A. ca. 3.

And that there be a fit Person or Persons nominated and appointed annually in all Places where the said Commodities are made or vendid, to be Gagers, Viewers and Surveyors of Cask made for the aforesaid Commodities ; and mark such as they find Merchantable and of due Assize : For which Service the Cooper that Gage of Cask. To be Brand-mark'd. Viewers and Gagers to be appointed.

Their Fee. that employs them, shall pay *sixteen Pence* per Ton, for what they shall mark. And the Select-men of every Town in this Province, where such Commodities are made or vended, shall chuse and appoint a fit Person or Persons some Time in the Month of *March* annually, not only for Gaging the Cask before they are filled; but for searching and proving them afterwards, and marking such Cask as they find Merchantable, with such Mark as the Select-Men of the Town shall appoint; which Officers shall take the Oath appointed by this Act, to be administred by such as do Swear Town Officers in the respective Towns.

Gagers, &c. to attend the Service. And be it further enacted by the Authority aforesaid, That the Persons so appointed and sworn to be Gagers, Surveyors and Searchers of Cask, Tar, Pitch, Rozin and Turpentine; shall at all seasonable Times on due Notice given them, attend and perform the said Service of Gaging Cask, and Surveying and Searching Tar, Pitch, Turpentine and Rozin; by cleansing the Tar of Water, and filling it up with good Tar; and examining of the Turpentine, by broaching it on the Head opposite to the Bung, for the better Discovery of Dirt and Chips, and over-great Bungs and other Frauds.

Their Fees. And also to see that Rozin and Pitch be well made, and the Cask well filled and without Deceit, after the best Manner that may be; and to mark such Cask of the aforesaid Commodities as they find Merchantable, with the Mark appointed for each Town: For which Service the Officer shall receive *two Shillings* per Ton for such Cask of Tar, Pitch, Rozin and Turpentine, as he shall so examine and mark; besides *three Pence* per Mile for travel above one Mile. And if the Owner of the aforesaid Commodities, or Maker of the Cask that are marked, refuse to satisfy the Officer for his Fees aforementioned, he shall have Power to detain so much of the Commoditty as will make him Satisfaction for his Fees and Travel aforesaid: And if the Owner do not redeem it within twenty-four Hours, then to expose it to Sale; and out of the Proceeds to satisfy himself his Fees and Charges, returning the Over-plus (if any be) to the Owner.

Power to distrain.

Penalty on Coopers for selling Cask unmark'd. And be it further enacted by the Authority aforesaid, That if any Cooper shall expose any Cask for the aforementioned Commodities to Sale, without his own and the Gagers Marks; all such unmark'd Cask shall be forfeited.

Turpentine not to be put up without Straining. And if any Person shall put up Turpentine into any Cask of the aforesaid Gage without straining out the Chips and Bark (as much as may be) he shall forfeit every Barrel of Turpentine so filled.

Penalty for Fraud. And if any Person shall be convicted of using any Frauds or Deceit in putting up or filling any Cask with Tar, Pitch, Rozin or Turpentine; he shall pay a Fine of *twenty Shillings* for each Cask of any of the aforesaid Commodities in which any Fraud shall be discovered; or be publicly whipped, as the Court of General Sessions of the Peace, that shall have the Cognizance thereof shall determine, and pay the Charge of Prosecution; and the aforesaid Commodities in which the Deceit shall be found, shall be forfeited.

Court of Sessions of the Peace to appoint Surveyors, Gagers and Searchers in Sea Port Towns. And be it further enacted, That in each Sea Port Town within this Province, where the aforesaid Commodities, (or any of them) are usually shipped to go beyond Sea; the Court of General Sessions of the Peace in each County respectively, wherein such Sea Port lies, shall, at their first Session in the Spring annually, nominate and appoint, one or more suitable Persons to be Surveyors, Gagers and Searchers of Tar, Pitch, Turpentine or Rozin: Which Officer shall when he is desired, View, Gage and Search all such Cask of the aforesaid Commodities as shall be presented to his View, and mark each Cask that he finds Merchantable, on the fairest Head, with such Mark as the Sessions of Peace shall appoint; for which Service they shall be paid by the Shipper *two Pence* for each Cask so marked. And the said Officers shall be Sworn by the Sessions of the Peace. And every such Surveyor is hereby impowred, by and with a general Warrant to be made out for that Purpose by the Governour and Vice-Admiral for the Time being, to search all Ships and other Vessels, wherein he shall be informed or suspect, that any Tar, Pitch or Rozin is shipped contrary to this Act.

Their Fees.

To search Ships by Warrant from the Governour.

Weights and Measures.

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And it is further enacted, That no Cask of Tar, Pitch, Rozin, or Turpentine shall be exported, without marking as the Law directs. And if any Master of any Ship or Vessel, or any other Person belonging thereto, shall take or receive on Board any such Ship or Vessel any Tar, Pitch, Rozin or Turpentine not so marked; he or they who shall offend therein, and be convicted thereof, shall forfeit *five Shillings* for each unmarked Cask so taken on Board contrary to Law; and pay the Costs of Prosecution, over and above the Forfeiture of the Goods so unduly shipped.

Cask to be
mark'd before
shipping.

And it is further enacted by the Authority aforesaid, That all Fines, Penalties and Forfeitures arising by Force and Virtue of this Act, shall be one Half to the Use of the Poor of the Town where the Offence shall be discovered; and the other Half to him or them that shall inform and sue for the same in any of Her Majesty's Courts of Record within this Province.

Penalty for
Neglect.

And be it further enacted, That an Oath shall be administered to the Officers that shall be chosen to Gage, Survey and Search Tar, Pitch, Rozin and Turpentine, in the Form following: viz.

Fines & For-
feitures how to
be disposed.

YOU—Swear, diligently and faithfully to intend the Office of—that you are appointed unto, within the Town of—and to discharge the Duty and Trust thereby required of you impartially after your best Skill and Cunning according to Law. So help you GOD.

Oath.

Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act in Addition to the Act for due Regulation of Weights and Measures.

BE it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Sealer appointed in each Town within this Province, from Time to Time, as by the Act Intituled, *An Act for due Regulation of Weights and Measures*, is directed; shall be and is hereby impowred to go to the Houses of such of the Inhabitants as upon Warning given in Manner as by the said Act is appointed, shall neglect to bring or send in their Beams, Weights and Measures, to be proved and sealed at the Place assigned for that Purpose, and shall there Prove and Seal the same; and shall demand and receive of the Owner for every Beam, Weight and Measure proved and sealed *two Pence*, and no more: And every Person that shall refuse to have their Beams, Weights and Measures viewed, proved and sealed, shall forfeit the Sum of *five Shillings*; one Moiety thereof to the Use of the Poor of the Town, and the other Moiety to the Sealer; to be recovered in Manner as by the aforesaid Act is provided. And if any Person shall bring his Beam, Weights or Measures to be proved and sealed at any other Time than on the Day or Days set by the Sealer for that Purpose, he shall in like Manner pay *two Pence* for each that shall be tried and sealed.

Sealer his Du-
ty and Fee.
4 W. & M.
ca. 14.

Penalty on
Persons re-
fusing to have
their Weights
and Measures
sealed.

And be it further enacted by the Authority aforesaid, That if any Person from and after the first Day of May, One Thousand seven Hundred and six, shall sell, vend or utter any Goods, Wares, Merchandizes, Grain or other Commodities whatsoever, by other Beams, Weights or Measures than such as shall be proved and sealed, as the Law requires; the Persons so offending shall lose and forfeit the Sum of *five Shillings* for each Offence of that Kind; one Moiety thereof to the Use of the Poor of the Town where the Offence shall be committed, and the other Moiety to the Sealer or Informer, who shall prosecute the same; to be heard and determined by one or more of Her Majesty's Justices of the Peace.

Penalty for
weighing
with Beams
or Weights
unseal'd.

And be it further enacted by the Authority aforesaid, That there be provided by the Treasurer of this Province, a good Beam and Scales, and a Nest of Troy Weights, from one Hundred twenty eight Ounces downward

Beams, Scales
and Nest of
Troy Weights
to be provi-
ded by the
Treasurer.

Sureties on Mean Process.

Towns to be
provided with
a Nest of Troy
Weights.

Penalty for
Neglect.

None to
weigh Silver
or Bullion
&c. by any
other Weights.

Town Stan-
dards to be
prov'd once
in ten Years
by the Pub-
lick, & to be
marked.

Sealer to go
to Merchants
Houses, &c.

to the least Denomination, marked with the Mark or Stamp used in Her Majesty's Exchequer, for a publick Standard. And that from and after the first Day of *October*, One Thousand seven Hundred and six, each Town within this Province shall, at their own Cost, and by the Care of the Select-Men or Town Treasurer, be provided with a Nest of Troy Weights of a different Form, from Averdupoize, the biggest, not to be less than eight Ounces : As also Penny Weights and Grains, proved by the publick Standard, each to be marked the Number of Ounces, Penny Weight or Grains which it contains ; to be for their Town Standards ; on Penalty of forfeiting the Sum of *five Pounds*, to the Use of the County in which any Town lies that shall neglect to be so provided ; by which all Troy Weights within such Town shall be proved and sealed by the Sealer thereto appointed, who shall be paid after the Rate of a *Farthing* per Weight for every such Weight which he shall Prove and Seal. And if any Person shall presume to weigh any Silver, Bullion or other Species whatsoever, proper and used to be weighed by Troy Weights, by any other Weights, or by any Beam or Troy Weights not proved and sealed as aforesaid ; the Person so offending shall forfeit the Sum of *five Shillings*, to be recovered and disposed of in Manner as is herein before provided, for selling by other Weights and Measures unsealed.

And be it further enacted by the Authority aforesaid, That all Beams Weights and Measures kept for Standards in the several Towns shall be proved and tried by the publick Standard at the end of ten Years, from Time to Time. And all Town Standards shall be stamp'd with this Mark, *viz. N. E.* Any Law, Usage or Custom to the contrary notwithstanding.

And be it further declared, That the Sealer is hereby enjoined, and required to go to the Houses or Store-Houses of Merchants and others that usually weigh with great Beams and Weights, and there Prove and Seal the same : for which he shall be paid by the Owner of such Beam and Weights, his reasonable Charge of carrying the Standards ; and *eight Pence* per Hour for his Time in attending that Service, over and above the Fee herein before appointed.

C H A P. III.

An Act in Addition to and Explanation of the Act relating to Sureties upon Mean Process in Civil Actions.

5 W. & M.
ca. 5.

Principal to
be rendred in
Court before
Judgment
affirmed upon
Scire Facias.

Sureties dis-
charg'd upon
rendring the
Principal, and
paying of
Costs.

Whereas it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That upon special Bail given in any Civil Action according as is set forth in the Act Entitled, *An Act relating to Sureties upon mean Process in Civil Actions* : it shall be lawful for the Surety or Sureties at any Time or Times before the Judgment given in such Cause be affirmed against such Surety or Sureties, upon a Writ of *Scire Facias* brought, as by the said Act is provided to bring the Principal into Court, and move to be discharged ; and the Court upon such Motion made, shall order the Principal to be taken into Custody of the Sheriff, who shall detain him by the space of thirty Days, that so the Creditor by that Time may take his Body in Execution, if he think fit ; and in Case he be not served with Execution before the expiration of the said thirty Days, the Sheriff at the End thereof shall release him upon the Payment of his Prison Charges. And the Sureties from and after the rendring of the Principal in Court as aforesaid, and then paying to the Creditor the Cost he has been at for bringing forward his Suit by *Scire Facias*, to be adjusted in Court, shall be discharged from their Suretiship in like Manner as if they had rendred the Principal in Court at the Time of entring up of the Judgment, as is before provided : Any Law, Usage or Custom to the contrary notwithstanding.

For

Cord Wood. Burning of houses. Mixt Issue. 151

For the more equal and impartial Administration of Justice :

It is declared and enacted, That no Justice of the Superiour, or of any Inferiour Court of Pleas within this Province, shall have a Voice in judging or determining of any Civil Action which has before been heard and determined by him singly, as a Justice of Peace, and his Judgment appealed from; nor shall he be admitted an Attorney to plead or defend any such Cause.

No Justice of either Bench to be a Judge or Attorney in any Case determined by him as Justice of Peace.

C H A P. IV.

An Act to prevent Fraud in Cord-Wood exposed to Sale.

Whereas it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all Cord Wood exposed to Sale, shall be four Feet long, accounting to half the Carf; and the Cord being well and close laid together, shall measure eight Feet in length, and four Feet in height.

And in every Town and District within this Province where Wood is usually sold by the Cord, the Select-Men shall annually nominate and appoint some meet Persons to be Wood Corders; who shall be sworn in like Manner as other Town Officers, to the faithful Discharge of their Office, and shall diligently attend that Service; and demand and receive *three Pence*, and no more per Cord for all Wood that shall be corded by them.

Additional Act,
9 A. ca. 4.
Measure of a Cord of Wood.

WoodCorders to be appointed & sworn.

Fee.
9 A. ca. 4.

C H A P. V.

An Act against Burning of Houses.

Whereas it declared and enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Person of the Age of sixteen Years and upwards, shall willingly and maliciously, by Day or Night, burn the Dwelling House of another, or other House Parcel thereof; or any House built for publick Use; any Barn having Corn, Grain or Hay therein; any Mill Malt-House, Store-House, Shop or Ship: The Person so offending as aforesaid, shall be deemed and adjudged to be a Felon; and shall suffer the Pains of Death accordingly.

Burning of Houses declared to be Felony.

C H A P. VI.

An Act for the better preventing of a spurious and mixt Issue, &c.

Whereas it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Negro, or Molatto Man shall commit Fornication with an English Woman, or a Woman of any other Christian Nation within this Province; both the Offenders shall be severely whipped at the Discretion of the Justices of Assize, or Court of General Sessions of the Peace within the County where the Offence shall be committed; And the Man shall be ordered to be Sold out of the Province, and be accordingly sent away within the space of six Months next after such Order made; And be continued in Prison at his Master's Charge, until he be sent away. And the Woman shall be enjoined to maintain the Child (if any there be) at her own Charge: And if she be unable so to do, she shall be disposed of in Service to some of Her Majesty's Subjects within the Province, for such Term as the Justices of the said Court shall order, for the Maintenance of the Child.

Penalty for a Negro or Molatto Man, committing Fornication with a Christian Woman.

Penalty for a
Christian Man
committing
Fornication
with a Negro
or Molatto.

And if any English Man, or Man of other Christian Nation within this Province, shall commit Fornication with a Negro, or Molatto Woman, the Man so offending shall be severely whipped, at the Discretion of the Justices of the Court of Assize, or Court of General Sessions of the Peace, before whom the Conviction shall be; and shall also pay a Fine of *five Pounds* to Her Majesty for and towards the Support of the Government; and be enjoined to maintain the Child, if any there be: And the Woman shall be sold, and sent out of the Province, as aforesaid.

Penalty for a
Negro or Mo-
latto striking a
Christian.

And if any Negro or Molatto shall presume to smite or strike any Person of the English, or other Christian Nation; such Negro or Molatto shall be severely whipped, at the Discretion of the Justices before whom the Offender shall be convicted.

No Christian
to Marry with
a Negro or
Molatto.

And be it further declared and enacted by the Authority aforesaid, That none of Her Majesty's English or Scottish Subjects; nor of any other Christian Nation within this Province, shall contract Matrimony with any Negro, or Molatto. Nor shall any Person, duly authorized to solemnize Marriages, presume to join any such in Marriage; on Pain of forfeiting the Sum of *fifty Pounds*; one Moiety thereof to Her Majesty, for and towards the Support of the Government within this Province; and the other Moiety to him or them that shall inform and sue for the same, in any of Her Majesty's Courts of Record within the Province, by Bill, Complaint or Information.

Penalty for
joining any
such in Mar-
riage.

And no Master shall unreasonably deny Marriage to his Negro, with one of the same Nation: Any Law, Usage or Custom to the contrary notwithstanding.

All Negroes
Imported to
be entred &
Duty paid.

And be it further enacted by the Authority aforesaid, That from and after the first Day of *May*, in the Year one Thousand seven Hundred and six, every Master of Ship or Vessel, Merchant or other Person, importing or bringing into this Province, any Negro or Negroes, Male or Female, of what Age soever, shall enter their Number Names and Sex in the Impost Office; and the Master shall insert the same in the Manifest of his Lading; and shall pay to the Commissioner and Receiver of the Impost *four Pounds* per Head for every such Negro, Male or Female: And as well the Master, as the Ship or Vessel wherein they are brought, shall be Security for Payment of the said Duty; and both or either of them shall stand charged in the Law therefor to the Commissioner; who may deny to grant a Clearing for such Ship or Vessel, until Payment be made; or may recover the same of the Master, (at the Commissioner's Election) by Action of Debt, Bill, Complaint or Information in any of Her Majesty's Courts of Record within this Province.

Master and
Ship both
Security for
the Duty.

Penalty for
not entring
of Negroes

And if any Master of Ship or Vessel, Merchant or other shall refuse or neglect to make Entry as aforesaid, of all Negroes imported in such Ship or Vessel; or be convicted of not entring the full Number; such Master, Merchant or other Persons shall forfeit and pay the Sum of *eight Pounds*, for every one that he shall refuse or neglect to make entry of; one Moiety thereof to Her Majesty for and towards the Support of the Government of this Province, and the other Moiety to him or them that shall inform of the same, to be recovered by the Commissioner in Manner as aforesaid.

Draw-Back
upon Expor-
tation, &c.

And if any Negro imported as aforesaid, for whom the Duty is paid, shall be again exported within the space of twelve Months, and be *boni fide* sold in any other Plantation; upon due Certificate thereof produced, under the Hand and Seal of the Collector or Naval Officer in such other Plantation, the Importer here shall be allowed to draw back the whole Duty of *four Pounds* by him paid; and Order shall be given accordingly. And the like Advantage of the Draw-back shall be allowed to the Purchaser of any Negro sold within this Province, in Case such Negro happen to die within the space of six Weeks next after Importation, or bringing into this Province.

Prison Charges. Town Officers. Powder-House. 153

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-ninth of *May*, 1706.

C H A P. I.

An Act for the better securing the Payment of Prison Charges.

WHEREAS Persons are oft-times arrested and imprisoned for Debt, or Pretence thereof, not having wherewith to pay their Prison Charges; and the Goaler or Prison Keeper, is constrained to feed and support them at his own Charge, to his great Loss: Preamble.

For Prevention whereof:

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Attorney, Practitioner in the Law, or others, shall cause any Person to be arrested and imprisoned upon mean Procefs for Debt or Pretence thereof, and the Prisoner be unable or have not wherewith to pay his Prison Charges; the Person at whose Suit he is committed, his Attorney or Lawyer that took out and caused such Writ to be served; in Case the Principal be out of this Province or Government, shall stand charged for the Prisoner's Fees, Diet and other necessary Charges, for so long Time as he shall be held and detained in Prison upon such Procefs; no further Prosecution being had thereon to a Judgment in Law, and be liable to the Goaler or Prison-Keeper's Action for the same: Any Law, Usage or Custom to the contrary notwithstanding. Attorney's liable in Case.

C H A P. II.

An Act for a new Choice of Town Officers on special Occasions.

WHEREAS it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when by Reason of the Non-Acceptance, Death or Removal of any Person or Persons chosen to Office in any Town at the General annual Meeting for the Choice of Town Officers, there happens to be a Vacancy or Want of such Officers; the Town being orderly assembled, upon due Warning given and Notice of the Occasion, may proceed to a new Choice of Officers to supply and fill up such Vacancy, at any other Town Meeting, the Restriction of the Choice of Town Officers by Law to the Month of *March* annually notwithstanding. Town Officers may be Chosen at any other Meeting than that of *March* in Case.
4 W. & M. ca. 12.

C H A P. III.

An Act for erecting a Powder-House within the Town of Boston

WHEREAS for the better securing and safe keeping of the publick Stock of Gun-Powder, and preventing the great Loss and Danger of Casualties befalling the same: And considering the imminent hazard by keeping Powder in Store-Houses with other Goods and Merchandizes; or in, or near to Dwelling-Houses; The Government have thought it necessary to order the erecting and building of a publick Magazine or Powder-House on the Common or Training-Field in Boston: Preamble.

Penalty for
lodging Pow-
der in other
Place, but the
publick Pow-
der House.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the building and fitting the said House for the receiving and lodging of Gun-Powder, all Gun-Powder imported and landed at the Port of *Boston*, shall be brought to and lodged in the said Magazine or Store, and not elsewhere; on Pain of Confiscation of all Powder put or kept in any other House or Place; one Moiety thereof to and for the Use and Supply of the publick Store of the Province, and the other Moiety to the Informer; to be recovered by Bill, Plaint or Information in any of Her Majesty's Courts of Record within the same.

Saving.

See Resolve
at the end of
this Act

Saving nevertheless, The ordinary Town Stocks of *Boston* and *Charlestown* from Time to Time; the Fortifications and Garrisons immediately under the Governour's Command; the Quantity of *fifty Pounds* at a Time in a Shop for Sale; and such Part of the publick Stores as shall be directed by the Governour and Council, from Time to Time; to be lodged in other Place or Places.

Payment for
Merchants
Powder.

And be it further enacted by the Authority aforesaid, That for all Powder belonging to Merchants or other private Persons put into the said Magazine, there shall be paid to the Use of the Province, *one Shilling* per Barrel at the Receipt thereof; and *six Pence* per Barrel per Month, for three Months next after the first; and then *four Pence* per Barrel per Month, during it's lying there: Out of which (if there be sufficient to answer it,) the Charge of looking after the said House and the Powder lodged there, shall be defreyed from Time to Time. The Governour and Council to give necessary Instructions and Orders from Time to Time, as they shall think fit, for regulating the keeping of all Powder put into the said Magazine, for the preserving thereof; and that it be turned once a Month at the least.

Governor &
Council to
give Instruc-
tions; &c.

Keeper of the
House to at-
tend.

And the Keeper of the said House shall duly attend at proper Hours to be assigned by the Governour and Council, for the receiving and delivering out of Merchants Powder.

How the
Charge of
Keeping the
House is to
be defreyed.

And if at any Time the Payment for Merchants Powder (an Account whereof shall be rendred on Oath) will not defrey the Charge of looking after the said House, so much as is wanting, shall be paid out of the publick Treasury.

[At a Great and General Court held at *Boston*, on the second Day of March, 1721. Question, Whether in the Act Intituled *An Act for erecting of a Powder-House in the Town of Boston*, made in the fifth Year of Queen Anne; the Saving therein mentioned doth not intend all the Gun-Powder belonging to the Province?

Resolved in the Affirmative; and that it is to be construed and understood of all Powder removed by Order of the Governour and Council for the Province Service.]

C H A P. IV.

An Act for the better preventing of Criminals avoiding of Justice.

Warrant &c.
out of the
Clerk of the
Peace Office
to run thro'
the Province.

BE it declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all Warrants and Summons in Criminal Matters, issuing out of the Clerk's Office of the Court of General Sessions of the Peace for any County, upon Complaint, Presentment or Indictment lying before such Court; shall run through the several Counties within the Province, and be duly executed by the Officer or Officers to whom they are directed, according to the Tenor thereof; as is already by Law provided for Writs in Civil Causes.

11 W. ca. 2.

Taxes. Rates of Foreign Coins Ascertained. 155

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston* upon Wednesday the twenty-eight of *May*, 1707.

C H A P. I.

An Act in Addition to the Act directing how Rates or Taxes to be granted by the General Assembly, shall be assessed and collected.

*W*HEREAS the several Towns within this Province are by Law empowered annually to choose Assessors distinct from the Select-Men for the assessing of the Towns Proportion of all publick Taxes laid from Time to Time, by Order of the General Assembly :

Be it declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Assessors from Time to Time chosen in each Town distinct from the Select-Men, shall be the Assessors of such Town's Proportion also, to the County and Town Charges : who shall likewise be under Oath to the Discharge of that Trust, according to the Rules and Directions in the Law in that Respect, and to be under the like Penalty for not accepting and serving as is by Law directed for the Province Tax.

4 W. & M.
ca. 13.
Assessors.

And every Town may choose a Collector or Collectors for the gathering of the County and Town Charges, if the Inhabitants shall think fit ; as the Law provides for the Province Taxes : Any Law, Usage or Custom to the contrary notwithstanding

Collectors.

Act of Parliament.

C H A P. II.

An Act for Ascertaining the Rates of Foreign Coins in Her Majesty's Plantations in *America*.

*W*HEREAS for Remedying the Inconveniencies which had arisen from the different Rates at which the same Species of Foreign Silver Coins did pass in Her Majesty's several Colonies and Plantations in *America*, Her Most Excellent Majesty has thought fit by Her Royal Proclamation, bearing Date the Eighteenth Day of June, One Thousand Seven Hundred and Four, and in the Third Year of Her Reign, to Settle and Ascertain the Currency of Foreign Coins in Her said Colonies and Plantations, in the Manner and Words following :

Preamble:

*W*E having had under Our Consideration the different Rates at which the same Species of Foreign Coins do pass in Our several Colonies and Plantations in *America*, and the Inconveniencies thereof, by the indirect Practice of Drawing the Money from one Plantation to another ; to the great Prejudice of the Trade of Our Subjects : And being Sensible, That the same cannot be otherwise Remedied, than by Reducing of all Foreign Coins to the same Current Rate within all Our Dominions in *America* ; And the principal Officers of Our Mint having laid before Us a Table of the Value of the several Foreign Coins which usually pass in Payments in Our said Plantations, according to their Weight ; and the Assays made of them in Our Mint, thereby shewing the just Proportion which each Coin ought to have to the other ; which is as followeth,

Rates of Foreign Coins Ascertained.

loweth; viz. *Sevill* Peices of Eight, Old Plate, Seventeen Penny-weight Twelve Grains, *Four Shillings* and *Six-pence*; *Sevill* Peices of Eight, New Plate, Fourteen Penny-weight, *Three Shillings* *Seven-pence* *One farthing*; *Mexico* Peices of Eight, Seventeen Penny-weight Twelve Grains, *Four Shillings* and *Six-pence*; *Pillar* Peices of Eight, Seventeen Penny weight Twelve Grains, *Four Shillings* and *Six-pence* *Three farthings*; *Peru* Pieces of Eight, Old Plate, Seventeen-Penny-weight Twelve Grains, *Four Shillings* and *Five-pence*, or thereabouts; *Crofs* Dollars, Eighteen Penny weight, *Four Shillings* and *Four-pence* *Three farthings*; *Ducatoons* of *Flanders*, Twenty Penny weight and Twenty-one Grains, *Five Shillings* and *Six-pence*; *Ecu's* of *France*, or *Silver Lewis*, Seventeen Penny-weight Twelve Grains, *Four Shillings* and *Six-pence*; *Crusadoes* of *Portugal*, Eleven Penny-weight Four Grains, *Two Shillings* and *Ten-pence* *One farthing*; *Three Gilder* Pieces of *Holland*, Twenty Penny-weight and Seven Grains, *Five Shillings* and *Two-pence* *One farthing*; *Old Rix* Dollars of the Empire, Eighteen Penny-weight and Ten Grains, *Four Shillings* and *Six-pence*: The Halts, Quarters and other Parts in Proportion to their Denominations, and Light Peices in Proportion to their Weight: We have therefore thought fit for Remedying the said Inconveniencies, by the Advice of Our Council, to Publish and Declare, That from and alter the First Day of *January* next ensuing the Date hereof, No *Sevill*, *Pillar*, or *Mexico* Peices of Eight, though of the full Weight of Seventeen Penny-Weight and an half, shall be Accounted, Received, Taken or Paid within any of our said Colonies or Plantations, as well those under Proprietors and Charters, as under Our immediate Commission and Government, at above the Rate of *Six Shillings* per Piece Current Money, for the Discharge of any Contracts or Bargains to be made after the said First Day of *January* next, the Halts, Quarters, and other lesser Pieces of the same Coins to be Accounted, Received, Taken, or Paid in the same Proportion: And the Currency of all Pieces of Eight of *Peru*, Dollars, and other Foreign Species of Silver Coins, whether of the same or Baser Alloy, shall after the said First Day of *January* next, stand Regulated, according to their Weight and Fineness according and in Proportion to the Rate before Limited and Set for the Pieces of Eight of *Sevill*, *Pillar* and *Mexico*; So that no Foreign Silver Coin of any Sort be permitted to exceed the same Proportion upon any account whatsoever. And We do hereby Require and Command all Our Governours, Lieutenant-Governours, Magistrates, Officers, and all other Our good Subjects within Our said Colonies and Plantations, to Observe and Obey Our Directions herein, as they Tender Our Displeasure.

And whereas notwithstanding the said Proclamation, the same indirect Practices as are therein mentioned, are still Carried on within some of the said Colonies or Plantations, and the Money thereby drawn from one Plantation to another, in Prejudice of the Trade of Her Majesty's Subjects: Wherefore for the better Insforcing the due Execution of Her Majesty's said Proclamation throughout all the said Colonies and Plantations; and for the more effectual Remedying the said Inconveniencies thereby intended to be Remedied:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That if any Person within any of the said Colonies or Plantations, as well those under Proprietors and Charters, as under Her Majesty's immediate Commission and Government, shall after the First Day of *May*, which shall be in the Year of Our Lord, *One Thousand seven Hundred and Nine*, for the Discharge of any Contracts or Bargains to be thereafter made, account, receive, take or pay any of the several Species of Foreign Silver Coins mentioned in the before-recited Proclamation, at any greater or higher Rate than at which the same is thereby Regulated, Settled and Allowed, to be Accounted, Received, Taken or Paid, every such Person so Accounting, Receiving, Taking or Paying the same contrary to the Directions therein contained, shall suffer

six

Penalty for accounting, receiving taking or paying any of the several Species of Foreign Silver Coins herein mentioned, at any greater or higher Rate after the first of *May*, 1709.

Free Negroes, &c.

157

six Months Imprisonment without Bail or Mainprize : Any Law, Custom or Usage in any of the said Colonies or Plantations to the contrary hereof in any wise notwithstanding ; And shall likewise forfeit the Sum of *Ten Pounds* for every such Offence ; One Moiety thereof to Her Majesty, Her Heirs and Successors ; the other Moiety to such Person or Persons as shall sue for the same : To be Recovered with full Costs of Suit, by Action of Debt, Bill, Plaint or Information, in any of Her Majesty's Courts of Justice within any of the said Plantations, or in any of the Courts of Justice of the Charter or Proprietary Governments where such Offence shall be committed.

Provided nevertheless, and it is hereby Declared, That nothing in the before-recited Proclamation, or in this Act contained, shall extend, or be construed to compel any Person to receive any of the said Species of Foreign Silver Coins, at the respective Rates in the said Proclamation mentioned.

Provided also, and it is hereby further Declared, That nothing in this Act contained, shall Extend or be Construed to Restrain her Majesty from Regulating and Setting the several Rates of the said Species of Foreign Silver Coins within any of the said Colonies or Plantations, in such other Manner, and according to such other Rates and Proportions as her Majesty by her Royal Proclamation for that Purpose to be issued, shall from time to time judge proper and necessary ; or from giving Her Royal Assent to any Law hereafter to be made in any of the said Colonies or Plantations, for the Setting and Ascertaining the Current Rates of such Coins within the said Colonies or Plantations ; but that such further Regulations may be made, and such Assent given, in as full and ample Manner, to all Intents and Purposes, as the same might have been done in Case this Act had not been made, and no otherwise : Any Thing herein before contained to the contrary hereof in any wise notwithstanding.

C H A P. III.

An Act for the Regulating of free Negroes, &c.

WHEREAS in the several Towns and Precincts within this Province, Preamble.
there are several free Negroes and Molattoes able of Body, and fit
for Labour ; who are not charged with Trainings, Watches, and other
Services required of Her Majesty's Subjects ; whereof they have Share in the
Benefit :

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Select-Men of each Town or Precinct, be, and hereby are impowred to Order and Require so many Days Work yearly of each free Male Negro, or Molatto, able of Body, dwelling within such Town or Precinct ; in repairing of the High-Ways, cleansing the Streets ; or other Service for the common Benefit of the Place, as at the Discretion of the Select-Men, may be judged an Equivalent to the Services performed by others, as aforesaid.

And every Negro or Molatto as aforesaid, being duly warned by the Select-Men or other Person appointed by them, that shall neglect or refuse to attend and perform the Labour and Service at the Place and Time, as he is directed ; shall forfeit and pay to the Use of the Poor of such Town or Precinct *five Shillings* per Diem, for each Days neglect of his Duty in that Respect. Negroes, &c. to do Service Equivalent to Trainings, &c. Penalty for neglect.

And be it further enacted, That all free Male Negroes, or Molattoes, of the Age of sixteen Years and upwards, able of Body, in Case of Alarm, shall make their Appearance at the Parade of the military Company of the Precinct wherein they dwell ; and attend such Service as the first Commission Officer of such Company shall direct, during the Time the Company continues in Arms ; on Pain of forfeiting the Sum of *twenty Shillings*, to the Use of the Company, or performing eight Days Labour, as aforesaid ; without reasonable Excuse made and accepted, for not attending. To attend in Case of Alarm.

And

Not to harbour Servants.

And be it further enacted, That every free Negro or Molatto, who shall harbour or entertain any Negro or Molatto Servant in his or her House, without the Leave and Consent of their respective Masters or Mistresses; shall forfeit and pay the Sum of *five Shillings*, to the Use of the Poor of the Town, for each Offence.

Punishment in Case of not paying their Fines.

And if any Negro or Molatto as aforesaid, shall be unable to pay his or her Fine; or shall neglect or refuse to attend the Labour assign'd him as aforesaid; any of Her Majesty's Justices upon Complaint thereof made, are hereby impowred to commit such Delinquent to the House of Correction, there to receive the Discipline of the House, and to be kept to hard Labour double the Number of Days assigned him to Work as aforesaid; or as is the Sum of his or her Fine, at the Rate of *one Shilling per Diem*.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1708.

C H A P. I.

An Act in Addition to and Explanation of the Act for Prevention of common Nuisances.

4 W. & M.
ca. 9.

WHEREAS in the Act Intituled, *An Act for Prevention of common Nuisances, arising by Slaughter-Houses, Still-Houses, Tallow-Chandlers and Curriers, made and pass'd in the fourth Year of the Reign of King William and Queen Mary*; It is directed and ordered, "That there be Houses specially assign'd for the killing of Meat, Distilling, trying of Tallow, and currying of Leather, where they may be less offensive: And that the said Callings be exercised in no other Places:

Leather Dressers comprehended under the Denomination of Curriers.

Be it declared and enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the dressing of Leather, either with Lime, Allum or Oil; and particularly the latter, is intended, comprehended, and so to be understood in the said Act under the Denomination of Curriers; and is hereby declared a common Nuisance; and forbidden under the Pains and Penalties in the said Act mentioned.

C H A P. II.

An Act in Addition to the Act for the Relief of Idiots and distracted Persons.

6 W. & M.
ca. 2.

WHEREAS in and by the Act Intituled, *An Act for the Relief of Idiots and distracted Persons; made and pass'd Sexto Willielmi et Mariæ, the Justices of the Superiour Court of Judicature are directed and impowred to licence and authorize the Select-Men or Overseers of the Poor of the Town or Place whereto such impotent or distracted Person belongs; or such others as the said Justices shall think fit, to make Sale of the Housing and Land of any such impotent or distracted Person; the Produce thereof upon Sale to be secured, improved and employed to and for the Use Relief and Safety of such Person, as the Justices shall direct; as long as the Person shall live, or until he or she be restored to be of sound Mind: And the Overplus (if any be) to and for the Use of the next and right Heirs of such Party: which Uses being so restrained and limited, the just Debts of the Party (in Case such there be) cannot be paid thereout; which exposes the Estate to Loss and Charge of Law-Suit for recovery thereof:*

Tar, Pitch, &c.

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He is therefore declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Goods, Chattels, Housing and Lands of any impotent or distracted Person, or the Produce thereof upon Sale made, by Licence and Impowerment as aforesaid, be subject in the first Place, and be accordingly so directed and applied to the Payment of the just Debts owing by such Person, which were contracted before the Time of his or her Distraction : Any Restriction or Limitation in the afore-recited Act, Law, Usage or Custom to the contrary notwithstanding.

Estate of Persons distracted, subject to the Payment of their Debts.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1708. And continued by several Prorogations unto Wednesday the sixteenth of *February* following, and then met.

C H A P. III.

An Act in Addition to the Act for Regulating the Assize of Cask for Tar, Pitch, Turpentine, &c. and for preventing Frauds and Deceit in the said Commodities.

23 E it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all Persons from and after the Publication of this Act, who are Makers or Drawers of Tar, Pitch, Turpentine and Rozin in any Town within this Province, shall after the making thereof, and before they expose the same to Sale, set the first Letters of their Names, with a Brand Mark, on the best Head of the Barrel they put it up in ; and shall also cause the same first to be searched by the Searcher : and upon his Certificate, to be entred by the Town Clerk, in a particular Book for that End, with the Name of the Owner, Time of Entry, and Mark, in the Head of every Barrel ; in the Town where the Maker or Drawer lives. And the Town Clerk shall be paid by the Owner thereof for recording and giving out Certificate, the Sum of *six Pence* for each Parcel. And all Tar, Pitch, Turpentine and Rozin that shall be sold, disposed of or transported out of the Town where it is made, before it be searched, marked, both with the Marker and Searcher's mark, and recorded as aforesaid, shall be forfeited. And if any Man shall presume to counterfeit another Man's Mark on any of the said Commodities, he shall pay as a Fine the Sum of *four Pounds* for each Barrel he shall make a counterfeit Mark upon.

4 A. ca. 12

Tar, &c. to be mark'd on the Head with a Brand Mark and upon Certificate from the Searcher to be Registered.

Town Clerk's Fee for Register & Certificate.

Penalty for Counterfeiting the Mark.

And the respective Officers appointed and to be appointed in each Sea-Port Town within this Province; to Search, Survey and Gage all Tar, Pitch, Turpentine and Rozin, according to the Law, shall be paid for all of the said Commodities, that shall be exported out of the Province, by the Shipper, the Sum of *three Pence* per Barrel, for their Service therein, instead of the *two Pence* per Barrel in the Law already enacted.

Fee for Searching before Shipping.

And it is further enacted by the Authority aforesaid, That all Fines, Penalties and Forfeitures arising by Force and Virtue of this Act shall be the one Half to the Use of the Poor of the Town, where the Offence shall be discovered, and Seizure made ; and the other Half to him or them that shall inform and sue for the same, in any of Her Majesty's Courts of Record within this Province : Any Law, Usage or Custom to the contrary notwithstanding.

Fines and Forfeitures how to be disposed.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston* upon Wednesday the twenty-fifth Day of *May*, 1709.

C H A P. I.

An Act for the Upholding and Regulating of Mills.

Preamble.

WHEREAS frequently there are divers Partners, Owners of Mills erected for the common Use and Benefit of the respective Towns where-in they are, and oft-times improved by the Inhabitants of Neighbouring Towns: And forasmuch as by Reason of Disagreement, Death or Decay of some of the Partners, or perplexity by Entail on their Descendants, Mills sometimes fall to despair, and are rendred useles and unserviceable, if not totally demolished, to the Hurt and Detriment of the Publick, as well as Loss to the other Partners, who stand ready to advance their Parts of the Charge for repairing, amending, or rebuilding of the same:

Additional Act.

12. A. ca. 9.
1 & 2 G. 2.
ca. 4.

Owners Meeting.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as it shall happen any Mill, or Mills, Mill Dam, Flood Gates, Slucies, running Gear, or Appurtenances, to be demolished, broken, worn out, or stand in need of Repair and Amendment, it shall and may be lawful to and for any one or more of the Partners, on Knowledge thereof, to notify and summon a general Meeting of the whole, at the said Mill or Mills, on a certain Day and Time, within fifteen Days next after the issuing of such Notification or Summons, to consult and agree about the rebuilding or repairing of such Mill or Mills, or Appurtenances, or Defects therein, to make them serviceable.

Major Part of the Interested to direct.

And if any Partner being so notified, shall neglect to attend such Meeting, or being met shall refuse to agree with the major Part of the Interested for rebuilding, repairing and fitting up of such Mill or Mills, so as to make them serviceable, or to pay his Part of the Cost and Charge thereof, the rest of the Partners, being the major Part of the Interested, may direct and cause the same to be done, and shall be reimbursed and paid such Sum or Sums as they or any of them shall advance and disburse thereon, over and above their own respective Shares and Proportion, with Interest for the same in the Interim, out of the said Mill or Mills, or the Profits or Earnings thereof. And it shall and may be lawful for them, and they are hereby impowred to demand, sue for, recover and receive the same accordingly: Any Law, Usage or Custom to the contrary notwithstanding.

Advance for any Partner how to be secured.

Toll.

And be it further enacted by the Authority aforesaid, That every Miller, shall be provided of Scales and Weights to weigh Corn to and from the Mill, if desired: And the Toll for grinding all sorts of Grain, shall be one sixteenth Part, and no more: Any Law, Usage or Custom to the contrary notwithstanding.

Saving.

Provided, That nothing herein contained shall be construed to annul or make void any particular Contract or Contracts made or to be made, respecting the Repairs of any Mill or Mills.

Drains, &c.

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An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, 1709. And continued by several Prorogations unto Wednesday the twenty-sixth of *October* following; and then met.

C H A P. II.

An Act for Regulating of Drains, and common Shores.

FOR preventing of Inconveniencies and Damages by frequent breaking up the High Ways, Streets, and Lanes in Towns, for the laying and repairing of Drains, or common Shores, and of Differences arising among Partners in such Drains, or common Shores, above their Proportion of the Charge for making or repairing the same: Preamble.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled; and by the Authority of the same, That from and after the twenty-fifth Day of *March* in the Year of our Lord, One Thousand seven Hundred and ten, no Person may presume to dig or break up the Ground, in any High Way, Street or Lane, within any Town, for the laying, repairing or amending of any Drain, or common Shore, without the Approbation and Consent of the Select-Men, signified in writing under the Hand of the Town-Clerk, on Pain of forfeiting *twenty Shillings*, to the Use of the Poor of such Town, to be levied by Warrant from any one of Her Majesty's Justices of the Peace; and to make good all Damages occasioned by such Breach. Penalty for digging or breaking up the Ground in any High Way, Street, &c. without Approbation.

And be it further enacted, That all Drains and common Shores for the draining of Cellars hereafter to be made or repaired in any Streets or High-Ways, shall be substantially done with Brick or Stone, in such Manner as the Select-Men of the Town shall direct. Drains and common Shores to be regulated by the Selectmen.

And that it shall and may be lawful to and for any one or more of the Inhabitants of any Town, at his or their own Cost and Charge, to make and lay a common Shore, or main Drain for the Benefit of themselves and others, that shall think fit to join therein. And every Person that shall afterwards enter his or her particular Drain into such common Shore, or main Drain; or by any more remote Means receive Benefit thereby, for the draining of their Cellars or Lands; shall be obliged to pay unto the Owner or Owners of such common Shore, or main Drain, a proportionable Part of the Charge of making or repairing the same; or so much thereof as shall be below the Place where any particular Drain joins or enters thereinto; at the Judgment of the Select-Men of the Town, or major Part of them. Liberty to lay a Main Drain or common Shore.
Persons receiving Benefit thereby, to pay towards the Charge; at the Judgment of the Select-men.

Saving a Right of Appeal to the Court of General Sessions of the Peace, to the Party aggrieved at any such Determination. Appeal.

Provided, This Act shall not extend to the altering of any particular Agreement or Contract, made betwixt Persons Interested in any Drain or common Shore. Contracts saved.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-fifth Day of *May*, 1709. And continued by several Prorogations unto Wednesday the first of *February* following ; and then met.

C H A P. III.

An Act to prevent Nufances by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in Rivers.

4 W. & M.
ca. 9.

Obstruction
of the Course
of Fish in Ri-
vers, by
Wears, &c.
a common
Nufance.

None to be
levied or set
up, without
Allowance of
the Court of
General Sessi-
ons of the
Peace.

Proviso.

WHEREAS it enacted by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That no Wears, Hedges, Fish-garths, Stakes, Kiddles, or other Disturbance or Incumbrance, shall be set, erected or made, on or a-crofs any River, to the stopping, obstructing or straitning of the natural or usual Course and Passage of Fish in their Seasons, or Spring of the Year, without the Approbation and Allowance first had and obtained from the General Sessions of the Peace in the same County : who are hereby authorized and impowred, on Application made to them at their Sessions, to grant Liberty for the same ; or to deny it, as they shall see it to be either a publick Good or Damage ; and so yearly from Time to Time, to be allowed or disallowed, as they shall direct.

And that all Wears, Hedges, Fish-garths, Stakes, Kiddles, or other Incumbrance whatsoever, set up and made, or hereafter to be levied, set up or made in, on, or a-crofs any River, to the straitning, obstructing and stopping the natural, common or usual Passage of Fish, in the Spring or proper Seasons of the Year, without Approbation or Allowance first had and obtained for the same, in manner as in and by this Act is directed ; are declared to be a common Nufance, and shall be demolished and pulled down ; not to be again repaired or amended. And that on Complaint made to the General Sessions of the Peace, or to any two Justices of the Peace *Quorum Unus*, in their respective Counties ; a Writ shall be granted to the Sheriff or Constable of the Town where the Nufance is done, to cause the Party or Parties complained of, to be examined ; and upon Conviction to remove the same ; and to command suitable Assistance therefor, at the Cost and Charge of the Person or Persons so offending.

Provided, That nothing herein contained shall be construed to extend to the pulling down or demolishing of any Mill Dam already made, or that shall hereafter be lawfully and orderly made.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1710.

C H A P. I.

An Act for the better Regulating the Ferry over *Charles-River*, betwixt *Boston* and *Charlestown*.

Preamble.

6 W. & M.
ca. 6, and
References.

WHEREAS several Petitions have been humbly offered to this Court from *Charlestown*, *Cambridge* and *Woburn*, signed by many of the Inhabitants of the said Towns ; and of divers others, Inhabitants of the adjacent Towns within the County of *Middlesex*, complaining of great Remissness and Neglect of due Attendance of the said Ferry, to the very great Detriment

Estates of Intestates.

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Detriment of the Province; and having thereupon been attended by the Treasurer of the College (the Profits and Revenues of the said Ferry being granted to Harvard College in Cambridge) and seen the Lease by him made of the said Ferry for several Years yet to come.

For Redress of the Grievances complained of; and to the intent the said Ferry may be accommodated for the Good and Service of the Province, and of Her Majesty's Subjects within the same, much increased over what they were at the first settling of the Ferry, now become a great Passage for Transportation: which that it may be done with the more Ease and Speed, the said Lease or Leases notwithstanding:

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That henceforth there be three sufficient suitable Boats and Appurtenances, with able, sober Persons to row in them, kept for the Transportation of Persons and Horses over the said Ferry: One of which in Turns to be always passing on the Water from Side to Side, in all proper Seasons when Boats may safely pass; not being obstructed by Ice, or extraordinary stormy Weather: And as any one of the said Boats shall Land on either Shore, the other Boat on the same Side to put off immediately: The three Boats to continue plying from Side to Side with all Industry and Diligence daily (except on the Lord's Day, and then to pass no oftner than Necessity shall require) from Sun rise, until nine of the Clock at Night, from the first of April until the first of October: and until eight at Night from the first of October to the first of April annually. And after those Hours, upon any necessary Occasion; and to be paid *one Shilling*, if it be one single Person; and if more, then double Ferrage for the whole Number, over and above *one Shilling* among all the Passengers, in equal Proportion. And that the Boats be lodged on that Side every Night where they are owned:

Three Boats, to attend the Ferry.

11 G. ca. 4.
Four Boats.

Boats to continue passing from & until the several Hours, at Morning and Night.

The said three Boats, to be three several separate Interests, not all of one Town. And the Ferry-Men employed in the said Boats respectively, shall give constant and diligent Attendance; and not deny or delay the speedy carrying over any Passenger or Passengers, according to the true Intent and Meaning of this and the former Laws relating to the said Ferry; under the Penalty therein provided.

Separate Interest.

Constant and diligent Attendance required.

And for preventing of Abuses oft-times offered to Ferry-men, by cheating them of their Ferrage; or putting them to make unreasonable Exchange:

Be it enacted by the Authority aforesaid, That it shall and may be lawful to and for the Ferry-men, to demand and receive Pay of all Passengers before they set them on Shore: And that the Ferry-men shall not be required or obliged to exchange for above the Value of *three Shillings and six Pence*, where the Ferrage does not exceed that Sum.

Ferrage to be paid before Landing.

Unreasonable Exchange not to be required.

C H A P. II.

An Act in Addition to, and for Explanation of the Act for the Settling and Distribution of the Estates of Intestates.

4 W. & M. ca. 2.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That, if after the Death of a Father, any of his Children shall die Intestate, without Wife or Children, in the Life-time of the Mother, every Brother and Sister and the Representatives of them, shall have an equal Share with her in the Estate of the Intestate: Any Thing in the aforesaid Act for the Settling and Distribution of the Estates of Intestates to the contrary thereof in any wise, notwithstanding.

Brothers and Sisters of any Person deceased Intestate without Wife or Children to be Sharers with the Mother.

And be it further enacted by the Authority aforesaid, That every Judge of Probate in making up and passing the Accounts of Administration of the Estates of Persons deceased, be, and is hereby directed to have Consideration, and make Allowance of necessary Bedding, Utensils and Implements of Household, necessary

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Allowance to necessary for the upholding of Life, to the Use of the Wife and Family of the Deceased; where Provision is not made for the Wife in that Respect by Will. And such necessary Bedding, Utensils and Implements of Household, shall not be accounted Assets in the Hands of the Executor or Administrator, nor subject to the Payment of Debts, altho' the Estate prove Insolvent: as they could not have been levied or distrained for Debt in the Parties Life-time: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. III.

10 W. ca. 2. An Act relating to Searchers and Sealers of Leather, and Clerks of the Market.

Preamble.

WHEREAS there are several Town Officers of whom an Oath is by Law required, but no Penalty provided upon their Refusal:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Person chosen to the Office of a Searcher and Sealer of Leather; or Clerk of the Market in any Town, shall refuse to take the Oath respectively required by Law for executing of such Office; without reasonable Excuse made, and accepted by the Justices of the Court of General Sessions of the Peace within the same County, for his not serving; shall pay forty Shillings Fine, to the Use of the Poor of such Town: Any Law, Usage or Custom to the contrary notwithstanding.

Searchers and Sealers of Leather; and Clerks of the Market, Penalty for refusing to serve.

C H A P. IV.

4 A. ca. 4. An Act in Addition to an Act to prevent Fraud in Cord Wood, &c.

Select-Men to appoint the Fee of Wood Corders.

BE it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That the Select-Men in every Town (where Corders of Wood are chosen) shall from Time to Time, as there shall be Occasion, appoint the Fees for cording Wood: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. V.

An Act directing the levying and collecting of County and Town Assessments.

4 W. & M. ca. 13.

WHEREAS the Act Intituled, *An Act for regulating of Townships, choice of Town Officers, and setting forth their Power; made and passed in the fourth Year of the Reign of King William and Queen Mary; directs and restrains the collecting and gathering of all Rates and Assessments, for County and Town Charges respectively, to the Constables of the Towns wherein they are levied; which in some Towns is attended with several Inconveniencies:*

For Remedy whereof:

Towns and Precincts allowed to choose Collectors.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful to and for the Freeholders and Inhabitants of each Town, District or Precinct within this Province, orderly set off and established annually from Time to Time, to elect and appoint a Collector or Collectors distinct from the Constable or Constables, for the gathering of all Rates and Assessments, from Time to Time duly assessed and levied within such Town

or

Admeasurement of Boards.

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or District, to and for County Charges; and to all Charges of every Kind whatsoever, enumerated in the aforesaid Act of Townships, arising within the same Town, District or Precinct, for any Use or Uses, Services, Dues or Payments, there to be made and done.

And all such Rates or Assessments, shall be demanded, paid to and received by a Constable or Collector to whom the same shall be committed to gather, with a Warrant from the Select-Men or Assessors under their Hands, in Form as by Law prescribed; and by no other Person or Persons: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

No County or Town Rates to be gathered, but by a Constable or Collector.

And every Collector or Constable to whom any such Rates or Assessments shall be committed, with a Warrant as aforesaid, shall levy, gather and receive the same, according to the Direction in the Warrant to him given; and shall Account for all his Receipts, and make Payment of what and so much as he shall levy and gather of the several Rates and Assessments, committed to him as aforesaid, to the County or Town Treasurers respectively; or other Receiver as by his Warrant he shall be required, in Manner and Time as is by Law provided; and be subject to the Pains and Penalties therein contained, in Case of Neglect either of collecting or paying.

Collectors and Constables to make Payment, as directed.

Be it enacted by the Authority aforesaid, That the Treasurer of each County respectively, be impowred to draw in and inforce the Payment of all County Charges, ordered by the Court of General Sessions of the Peace, by all such Rules and Methods prescribed by Law to enable the Treasurer and Receiver-General to gather in the Province Taxes; and shall from Time to Time lay before the General Assembly at their anniversary Session in May, an Account of all Money that has been raised in his respective County; or by any Means received by him as County Treasurer the Year past; what each Town paid towards it, and how the same has been employed or disposed of. And no further Assessment shall be levied, until the said Account has been offered to the General Court, as aforesaid, and allowed by them.

County Treasurer's Power. His Accounts to be laid before the General Assembly in May, Session annually.

C H A P. VI.

An Act for the Admeasurement of Boards, Plank and Timber; and Regulating the Tale of Shingles.

WHEREAS Boards, Plank and Timber, are usually Sold by the Measure set upon them at the Mills where they are Sawn; and Bundles of Shingles are mark'd for a greater Number than what they contain; wherein great Fraud and Deceit is too often practised by ill minded Persons:

Preamble.

For Prevention whereof:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That in each Maritime Town within this Province, where Boards, Plank, Timber and Slit-Work are usually imported, or brought for Sale, or exported beyond Sea; there be two or more honest skilful Persons, annually elected by such Town, at the Time of their anniversary Choice of Town Officers; to be Surveyors and Measurers of Boards, Plank, Timber and Slit-Work, and Surveyors of Shingles; who shall be sworn in Manner as other Town-Officers, to the faithful Performance of the Duty of their Office.

Surveyors and Measurers of Boards &c. to be annually elected in Maritime Towns.

And all Boards, Plank, Timber or Slit-Work, imported or brought for Sale; before their Delivery upon Sale, shall be viewed, surveyed, and also measured by one of the said Officers, where he shall have any doubt of the Measure; having Consideration for drying and shrinking: also shall mark a-new all such to the just Contents; making reasonable Allowance for Rots, Splits and Wains.

All Boards &c. to be viewed before Sale.

The Buyer to pay the Officer six-Pence per Thousand Feet for viewing only, and six-Pence per Thousand Feet more for measuring and marking; and pro rata for a lesser Quantity than a Thousand Feet.

Fee for viewing and measuring.

And

No Boards
&c. to be ex-
ported before
viewing.

And no Boards, Plank, Timber or Slit-Work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed, and also measured (if Occasion be) and marked a-new by one of the Officers thereto appointed; on pain of being forfeited, or the Value thereof, by the feller or shipper; to the Use of the Poor of the Town where they are sold or shipped.

Shingles not
holding out
in Number to
be forfeited.

And be it further enacted, That all Shingles exposed to Sale by Quantities in Bundles, that do not hold out the Number they are mark'd for; unless it appear some have been drawn or shaken out of the Bundle after packing; shall be forfeited to the Use of the Poor of the Town where they are exposed; the Charge of searching and telling of them, to be paid thereout.

7 W. ca. 7.

Dimensions
of Merchant-
table Shingles.

That every Bundle of Shingles that, according to the sound Judgment of the Surveyor, will hold out one with another, four and half Inches in Breadth shall be accounted Merchantable; provided they are fifteen or eighteen Inches in Length, according to which Length they are sold for; and the least to be three Inches in Breadth and upwards, and one third of an Inch or upwards in thickness; and all that are otherwise, to be culled out and burnt, and so many more, if need be, till what are left of the said Bundle will bear the four and half Inches, according to the Judgment of the Surveyor; who shall have for his Service *one Penny* for every Thousand surveyed; and *one Penny* more per Thousand for telling; to be paid by the Buyer, where no Forfeiture is for want of Tale to satisfy the Charge; and for every Thousand he culls and binds up again, *twelve Pence* per Thousand, and proportionable for lesser Quantity; to be paid by the Owner or Seller of the said Shingles, returning the Remainder to the Owner, if any be, after the Charges are paid: Any Law, Usage or Custom to the contrary notwithstanding

Fee for sur-
veying and
telling.

C H A P. VII.

An Act for explaining and enlarging of the Act for Prevention of common Nufances arising by Slaughter-Houses, Still-Houses, &c. Tallow-Chandlers and Curriers.

Preamble.

4 W. & M.
ca. 13.

WHEREAS in and by the Act Intituled, An Act for Prevention of common Nufances arising by Slaughter-Houses, Still-Houses, &c. Tallow-Chandlers and Curriers; made and passed in the fourth Year of the Reign of their late Majesties King William and Queen Mary: It is enacted, "That the Select-Men of the Towns of *Boston, Salem and Charlestown* respectively, "or other Market Towns within the Province, with two or more Justices of Peace "dwelling in the Town; or two of the next Justices in the County shall, at "or before the last Day of *March*, One Thousand six hundred ninety three, "assign some certain Places in each of the said Towns (where it may be least "offensive) for the erecting and setting up Slaughter-Houses, for the killing of "all Meat, Still-Houses, and Houses for trying of Tallow, and currying of "Leather: At which Houses and Places respectively and no other, all Butchers "and Slaughter-Men, Distillers, Chandlers and Curriers shall exercise and practice "their respective Trades and Mysteries.

But for as much as by Reason of the growth and increase of the said Towns, several of the Houses and Places then so assign'd, are become inconvenient for the Use intended, offensive, and by ill Stenches tend to breed Infection. And the said Act directing to that Time only for the assigning of Places for those Uses, and not looking forward:

Places to be
assign'd for
Slaughtering
Meat, &c.

Be it enacted by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That it shall and may be lawful, to and for the Select-Men of each of the Towns aforesaid respectively, with two Justices as aforesaid, Inhabitants of the Town, (if such there be) from Time to Time as Occasion shall be, to assign and appoint suitable

Suppression of Robberies, &c.

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suitable Places, where it may by least offensive, for the exercising of any of the aforesaid Trades or Mysteries, of killing Meat, distilling of Spirits, trying of Tallow, or currying of Leather; and to forbid and restrain the Exercise of either of them in other Places, not so approved and allowed of.

Places assign'd becoming offensive to be altered upon Inquiry by a Jury.

And be it further enacted by the Authority aforesaid, That when and so often from Time to Time, as it shall appear any House or Place assigned, or to be assigned to and for the exercising of either of the aforesaid Trades or Mysteries, to become a Nuisance by Reason of offensive and ill Stenches proceeding from the same, or otherwise hurtful to the Neighbourhood; it shall and may be lawful to and for the Court of General Sessions of the Peace within the County, to cause Inquiry to be made thereinto by a Jury, and to suppress such Nuisance by prohibiting and restraining the further Use thereof, for the Exercise of either of the aforesaid Trades or Mysteries; under a Fine not exceeding *forty Shillings* per Month, to be to the Use of the Poor of such Town, or otherwise as in their Discretion they shall think fit, by causing the said Nuisance to be removed or prevented; or any other Nuisance to be inquired of in Manner aforesaid.

Penalty for using them or making any other Nuisances.

And be it further enacted, That the Proof of any dead Beast or Beasts hanging up in any Out-House; or the lying, or carrying out the Intrails, Garbage of Beasts, or Blood of Creatures in or out of such House, shall be sufficient Conviction in Law, that such House is used for a Slaughter-House, within the Intent of the Law against common Nuisances.

Conviction of Slaughter Houses.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1711.

C H A P. I.

An Act for suppressing of Robberies and Assaults.

4 W. & M.
ca. 6.
3 G. ca. 3.

TO the Intent Her Majesty's Leige People may be in Peace and out of Fear of being assaulted and robbed by ill-minded wicked Ruffians, as they are travelling the common Roads or High-Ways; or of being insulted, and indecently treated or abused as they are civilly walking and recreating themselves in the Fields, Streets, or Lanes in Towns:

Preamble.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled and by the Authority of the same, That every Person and Persons that shall be convicted of assaulting and robbing, and taking away from the Person of another travelling the common Road or High-Way, any Money, Goods, Cloathing, or other Things whatsoever; shall be punished with burning in the Forehead or Hand, suffer six Months Imprisonment, and render treble Damages to the Party robbed.

Robbing on the Highway.

And upon a second Conviction of the like Offence, shall be deemed a Felon, and suffer the Pains of Death, as in Cases of Felony.

Second Conviction.

And be it further enacted by the Authority aforesaid, That whosoever shall be convicted of assaulting, or offering any Insolence or Violence to any Woman or Man-Kind, in the Fields, Streets or Lanes in any Town; or of despoiling them, damnify or defacing any of their Attire or Ornaments, or attempting the same; shall be punished by being publickly whiped, not exceeding ten Stripes; or by being committed to the House of Correction, to receive the Discipline of the House; and continue there by the space of thirty Days, and kept according to the Rules and Orders of the House; and also find Sureties for the good Behaviour, before he be discharged. And any two Justices of the Peace *Quorum Unus*, in the vacancy of the Court of General Sessions of the Peace, are impowered to hear and determine this Offence.

Assaulting of Women.

Y

And

Provision in Case of Fire.

Second Con-
viction.

And if the Party so offending, shall afterwards be convicted of committing the like Offence a second Time, he shall be further punished with burning in the Hand ; by Sentence of the Court of General Sessions of the Peace.

Parties Oath.

And it is further enacted, That in either of the Offences aforesaid, the Oath of the Party assaulted or robbed, being of Reputation, shall be received as one sufficient Evidence towards convicting the Person charged.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the thirtieth Day of *May*, 1711. And continued by several Prorogations and Adjournments unto Wednesday the seventeenth of *October* following, and then met.

C H A P. II.

12 W. ca. 3.

An Act providing in Case of Fire, for the more speedy Extinguishment thereof ; and for the preserving of Goods endangered thereby.

Preamble.

WHEREAS by Reason of the contiguity and adjoining of the Houses and Dwellings within the Town of Boston, Persons are under great Affrightment and Hurry, upon the breaking out of Fire ; and not only the Person in whose House the Fire first breaks out, but the Neighbourhood are concerned to employ their utmost Diligence and Application to extinguish the Fire, and prevent the Progress thereof, and to preserve their Substance, by the removal of their Goods ; being glad of the Assistance of others in that Regard : And divers evil-minded and wicked Persons, on Pretence of charitably offering their Help, taking Advantage of such Confusion and Calamities to rob, plunder, embezel, convey away, and conceal the Goods and Effects of their distressed Neighbours :

For preventing whereof :

Fire-wards.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful to and for the Justices of the Peace and Select-Men of the Town of *Boston*, from Time to Time, to appoint such Number of prudent Persons of known Fidelity, not exceeding ten, in the several Parts of the Town, as they may think fit ; who shall be denominated and called *Fire-wards* ; and have a proper Badge assigned to distinguish them in their Office, viz. A Staff of five Feet in Length, coloured red ; and headed with a bright brass Spire of six Inches long : And at Times of the breaking forth of Fire, and during the Continuance thereof, shall, and hereby are fully authorized and impowred, to command and require Assistance for the extinguishing and putting out the Fire ; and for removing of Household Stuff and Furniture, Goods and Merchandizes, out of any Dwelling-Houses, Store-Houses, or other Buildings actually on Fire, or in Danger thereof ; and Guards to secure, and take Care of the same : As also to require Assistance for the pulling down or blowing up of any Houses, or any other Service relating thereto ; by the Direction of two or three of the chief Civil or Military Officers of the Town (as is by Law provided) to stop and prevent the further spreading of the Fire : And to suppress all Tumults and Disorder.

Badge of their
Office.

Power.

Pulling down
or blowing up
Houses.4 W. & M.
ca. 1.Assistance to
be given
them.

And the Officers from Time to Time appointed as aforesaid, are required upon the Notice of Fire breaking forth, taking their Badge with them, immediately to repair to the Place, and vigorously to exert their Authority for the requiring of Assistance, and using utmost Endeavours to extinguish or prevent the

Reformation.

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the spreading of the Fire ; and to preserve and secure the Estate of the Inhabitants. And due Obedience is required to be yielded to them, and each of them accordingly for that Service.

And all Disobedience, Neglect or Refusal in any, shall be informed of to some of Her Majesty's Justices of the Peace within two Days next after ; and the Offenders therein, upon Conviction thereof, before any two Justices *Quorum Unus*, shall forfeit and pay the Sum of *forty Shillings* each ; to be levied and distributed by the Discretion of the Select-Men, amongst the Poor most distressed by the Fire : And in Case the Offender or Offenders are unable to satisfy the Fine, then to suffer ten Days Imprisonment.

Penalty for neglect.

And be it further enacted by the Authority aforesaid, That if any evil minded wicked Persons shall take Advantage of such Calamity, to rob, plunder, purloin, imbezel, convey away, or conceal any Goods, Merchandises or Effects of the distressed Inhabitants whose Houses are on Fire, or endangered thereby, and put upon removing their Goods ; and shall not restore and give Notice thereof to the Owner or Owners, if known ; or bring them into such publick Place as shall be appointed and assigned by the Governour and Council, within the Space of two Days next after Proclamation made for that Purpose ; the Person or Persons so offending, and being thereof convicted, shall be deemed Thieves : and suffer the utmost Severities of the Pains and Penalties by Law provided against such.

Penalty on such as shall conceal rob, or embezel Goods taken out of the Fire.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1711, And continued by several Prorogations and Adjournments unto Wednesday the twelve of *March* following, and then met.

C H A P. I.

An Act against Intemperance, Immorality and Profaneness, and for Reformation of Manners.

WHEREAS the Laws at several Times established by the Government of this Her Majesty's Province of the *Massachusetts-Bay*, and now in Force, have made good and wholesome Provision for the Regulation of Inns, Taverns, Ale-Houses, Victuallers, and other Houses for common Entertainment, and Retailers of strong Liquors out of Doors ; and for preventing of Tipling and Drunkenness ; declaring, that such licensed Houses ought to be improved to the right Ends and Uses for which they are designed ; namely, For the Receiving, Refreshment and Entertainment of Travellers and Strangers ; and to serve the publick Occasions of the Towns, and Place in which they are ; and not to be Nurseries of Vice and Debauchery, as is too frequently practised by some, to the Hurt of many Persons, by mispending their Time, and Money, in such Houses, to the Ruin of Families :

Preamble.

4 W. & M.

ca. 6.

7 W. ca. 2. &

10.

10 W. ca. 8.

4 W. & M.

ca. 6. & 7.

5 W. & M.

ca. 4.

10 W. ca. 8.

And have also made good and wholesome Provision against Immoralities, Vice and Profaneness :

Be it therefore enacted and declared by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Laws against Drunkenness, Profaneness, and other Immoralities, together with this Act, be solemnly read by the Town-Clerk, in each Town, at their Anniversary Town Meeting in *March*, from Time to Time.

Laws to be read in the Town Meeting.

Reformation.

Direction to
see that the
Laws be ob-
served.

And all Justices, Sheriffs, Grand-Jurors, Tything-Men, Constables, or other Officers whom it doth concern, are hereby strictly enjoined and required to exert their utmost Zeal and Vigour in seeing that the said several Laws be duly observed and kept : And that the Violators thereof be duly prosecuted and punished in Manner as by the said Laws is directed and provided : And the Select-Men and other principal well disposed Persons in each Town, desirous of a Reformation, are hereby exhorted and directed to countenance, accompany, assist and join with the Justices, Sheriffs, Tything-Men, Constables, and other Officers, in their Endeavours to discover and suppress all unlicensed Houses, and Vice Immorality and Prophaness.

And for reclaiming the over great Number of licensed Houses, many of which are chiefly used for Revelling and Tipling ; and become Nurseries of Intemperance and Debauchery, indulged by the Masters or Keepers of the same, for the sake of Gain :

A List of the
Names of
Persons licen-
sed to be trans-
mitted to the
Select-men.

Be it enacted by the Authority aforesaid, That the Clerk of the Peace in the respective Counties from Time to Time, annually, before the granting of Licences, do transmit to the Select-Men of every Town within the County, a List of the Names of the Persons in such Town, that were licensed the Year before ; and that Licences be renewed to none of them that the Select-Men shall except to as unfit to hold and exercise such an Employment by Reason of their not keeping good Rule and Order in their Houses ; not being suitably accommodated and provided, for the Entertainment of Strangers and Travellers, as the Law directs ; or not of sober Conversation.

None to be
firstly licensed
but upon the
Recommendation
of the
Select-mier.

And no Person shall have his Licence renewed, until he produces a Certificate to the Justices of Quarter Sessions, that such List has been transmitted to the Select-Men, and considered by them.

Licences not
to be renew'd
until Com-
plaints be
heard and
judged of.

And that no Time or Times hereafter, any Person or Persons, shall be firstly or originally licensed to be a Victualler, Innholder, Taverner or Seller of Wine, Beer, Ale, Cyder or strong Drink or Spirits, by Retail ; other than such who shall produce Certificate from the Select-Men of the Town where they dwell, recommending them to be Persons of sober Conversation, suitably qualified and provided for the Exercise of such an Employment. And that no Licence be renewed from Time to Time, to any Person hereto-fore licensed against whom any Presentment, Complaint or Information shall be made, for Misrule or Disorder in such House ; or for not being suitably provided, as the Law in such Case requires, to entertain Strangers and Travellers at Bed and Board ; before the Matter informed and complained of be inquired into and judged of. Provided such Presentment or Complaint be prosecuted to Effect, in the same Court for granting of Licences.

Licens'd Per-
sons not suit-
ably provided,
to be depriv'd.

And if any common Victualler, Innholder or Taverner enjoined by Law to be suitably provided to receive and entertain Strangers, Travellers, or others, as Occasion may require, shall be convicted of refusing to make suitable Provision, when desired, for the receiving of Strangers, Travellers, and their Horses ; or for any publick Entertainment ; such Person shall be deprived of his Licence. And any three or more of the Justices of the Court of General Sessions of the Peace, *Quorum Unus*, are hereby impowred and directed, by Warrant under their Hands and Seals, directed to the Sheriff or his Deputy, to cause his Sign to be taken down.

Town Dwel-
lers prohibited
drinking in
public Houses
after nine at
Night.

And be it further enacted by the Authority aforesaid, That no Town Dweller or Inhabitant in any Town, shall upon any Pretence whatsoever be drinking or tipling in any Tavern, or other publick licensed House, or in any of the Dependencies thereof, after nine a Clock in the Night ; under the Penalty of *twenty Shillings* ; to be paid by the Master or Keeper of such House, for his entertaining of them ; and *one Shilling* to be paid by each Person so offending.

Singing, Mu-
sick and danc-
ing forbidden
in public Hou-
ses.

That no singing, fidling, piping, or any other Musick, dancing, or revelling shall be suffered or exercised, in any Tavern, or other publick licensed House ; on Penalty of *ten Shillings* ; to be paid by the Master or Keeper of the said House, as shall suffer the same ; and *five Shillings* by each Person offending in any of the said Particulars.

That

Reformation.

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That there be two Tything-Men annually chosen within each Military Division within the Town of *Boston*; whose particular and especial Care and Charge it shall be to inspect that their Part of the Town.

That common Drunkards be posted up at the Houses of Retailers of Wine and Liquors out of Doors, as the Law directs to publick licensed Houses; with a Prohibition to them of selling Drink to any such.

Common Drunkards to be posted up at Retailers.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall presume to keep a Tavern, Inn, or House of common Entertainment, or to sell by retail Wine, Beer, Ale, Cyder, or any strong Drink or Spirits, without Licence first orderly had and obtained for the same, as the Law directs; such Person or Persons upon Conviction, or Confession thereof before one or more of Her Majesty's Justices of the Peace, shall forfeit and pay the Sum of *six Pounds*, for every such Offence; the one Moiety thereof to be to the Informer, and the other Moiety to the Use of the Poor of the Town, where the Offence shall be committed.

Penalty for selling without Licence.

And for the better Discovery and finding out Persons that shall presume to transgress against this Act, or any other of the Laws made against Vice, Prophaneness and Immorality:

The Select-Men in each respective Town, be, and are hereby impowred from Time to Time to chuse and appoint one or more discreet Persons to over-see and inform of any Breach of the said Laws; who shall have a meet and honourable Recompence made them for their Service, out of the Town Treasury, as the Select-Men shall think proper and suitable.

Select-Men to appoint Persons to be Informers.

And be it further enacted, That no Person or Persons either singly or together in Company shall presume to sing, dance, fiddle, pipe, or use any musical Instruments in any of the Streets, Lanes, or Alleys, within any Town in the Night Time; or make any Rout, or other Disturbance, to the Disquiet and Distress of any of the Inhabitants; under the Penalty of *Five Shillings*, for every Person so offending in any of the Particulars afore-mentioned; or being corporally punished by Imprisonment, sitting in the Stocks, or Cage.

Rout or Disturbance in the Street in the Night time.

And for the more religious Observation of the Lord's Day:

Be it enacted, That all Persons who shall be found in the Streets, Wharffs, Fields, or other Places within any Town, on the Evening following the Lord's Day, disporting, playing, making a Disturbance, or committing any Rudeness: The Persons so offending, shall each of them pay a Fine of *five Shillings*, or suffer twelve Hours Imprisonment, or sit in the Stocks, not exceeding two Hours. All Fines and Forfeitures arising by Virtue of this Act, or any Paragraph thereof, and not herein before disposed of, shall be to and for the Use of the Poor of the Town where the Offence shall be committed: any Law, Usage or Custom to the contrary notwithstanding.

Playing and Rudeness on the Evening following the Lord's Day forbidden.

And the Constables of the respective Towns are hereby directed and specially impowred, to prevent the Prophanation of the Lord's Day, by restraining Persons from walking, recreating and disporting themselves in the Streets, Wharffs, or Fields, in the Time of publick Worship.

Constables required to prevent Prophanation of the Lord's Day in the Time of publick Worship.

And forasmuch as the well educating and instructing of Children and Youth in Families and Schools, are a necessary Means to propagate Religion, and good Manners; and the Conversation and Example of Heads of Families, and Schools, having great Influence on those under their Care and Government to an Imitation thereof:

Be it enacted by the Authority aforesaid, That no Person or Persons shall or may presume to set up or keep a School for the teaching and instructing of Children or Youth in reading, writing, or any other Science, but such as are of sober and good Conversation; and have the Allowance and Approbation of the Select-Men of the Town in which any such School is to be kept; Grammar School Masters to have Approbation, as the Law in such Case already provides.

Keepers of Schools to have the Approbation of the Select-Men.

And

Penalty for
ſetting up or
keeping
School with-
out Approba-
tion.

And if any Perſon or Perſons after Publication of this Aſt, ſhall be ſo hardy, as to ſet up, or continue to keep any ſuch School without Allowance and Approbation as aforeſaid, the Perſon or Perſons ſo offending, ſhall forfeit and pay the Sum of *forty Shillings*; to the Uſe of the Poor of the Town where ſuch School ſhall be ſet up, or continue to be kept, contrary to this Aſt; and ſo *toties Quoties*, as often as they ſhall be convicted: Any Law, Uſage or Cuſtom to the contrary notwithstanding.

And whereas evil Communication, wicked, prophane, impure, filthy and obſcene Songs, Compoſures, Writings or Prints, do corrupt the Mind; and are Incentives to all Manner of Impieties and Debaucheries: More eſpecially when digeſted, compoſed or uttered in Imitation of Mockery of Devotion, or religious Exerciſes:

Penalty for
compoſing or
publishing of
prophane
Songs, or
mock Sermons

Be it further enacted by the Authority aforeſaid, That whoſoever ſhall be convicted of compoſing, writing, printing or publishing, of any filthy obſcene or prophane Song, Pamphlet, Libel or Mock-Sermon, in Imitation or in mimicking of Preaching, or any other Part of divine Worſhip; every Perſon or Perſons offending in any of the Particulars aforementioned, ſhall be puniſhed by Fine to her Maſteſty, not exceeding *twenty Pounds*,; or by ſtanding on the Pillory once or oftner, with an Inſcription of his Crime in Capital Letters affixed over his Head; according to the Diſcretion of the Juſtices in Quarter-Sessions.

C H A P. II.

An Aſt for Regulating the Size of Bricks.

Preamble.

UPON Conſideration of the great Quantities of Bricks now to be uſed for Building; and that the Firmneſs of Building very much depends on the Goodneſs of the Materials:

Clay to be
dug before
the 10th of
Decemb. &c.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court aſſembled, and by the Authority of the ſame, That Clay for the making of Bricks ſhall be digged before the tenth of *December* yearly; and ſhall be turned over in the Month of *February* or *March* next enſuing, at leaſt twenty Days before it be wrought; and then well and thoroughly wrought.

Not to be
tempered with
brackiſh Wa-
ter.

And no Perſon ſhall temper his Clay with ſalt or brackiſh Water; nor digg any Clay in any Place where the ſalt Water comes in.

Size of Bricks.

And be it further enacted by the Authority aforeſaid, That the Size of Bricks ſhan't be leſs than nine Inches long, four Inches and a Quarter of an Inch Broad, and two Inches and an Half Inch thick.

Size of Moulds
to be ſhod
with Iron, and
ſealed.

And all Moulds to be uſed for the making of Bricks, ſhall be made agreeable to theſe Sizes: *That is to ſay*, not leſs than nine Inches and a Quarter of an Inch long, four Inches a Quarter and a Half Quarter of an Inch broad, and two Inches and Half an Inch deep, within Side; being well ſhod with Iron, and ſealed by the Sealer to be appointed, as is herein after directed: ſo that the Bricks may hold out the Dimensions preſcribed as aforeſaid, as near as may be when burned.

Forfeiture of
Bricks not
made in
Moulds as
afore directed.

And whoſoever ſhall make and expoſe to Sale any Bricks not made in Moulds of the aforeſaid Sizes, ſhod with Iron, and ſealed by the Sealer; he ſhall loſe and forfeit one Half of all ſuch Bricks made contrary hereto, or the Value thereof; to the Uſe of the Poor of the Town or Diſtrict where they ſhall be made; to be ſued for and recovered in any of her Maſteſty's Courts of Record within the County where they ſhall be made, by the Treasuſer of the Town or Town Clerk.

Select-Men
to appoint a
Viewer and
Sealer.
To be ſworn.

And the Select-Men of each Town where Bricks are ordinarily made, are hereby directed and ordered, annually to nominate and appoint a ſuitable Perſon to be a Viewer and Sealer of Moulds, for the making of Bricks; who ſhall be Sworn before a Juſtice of the Peace, to the faithful Execution of his Office.

And

Winifsimmit Ferry.

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And is hereby impowered from Time to Time, to enter into all Brick-Yards, to view their Moulds, and to see that they be of due Size, well shod with Iron, as aforesaid, and sealed; and if they be under Size, or not well shod, to break the same. His Power.

And every Brick-Maker before the setting of his Kila, shall call the Viewer to over-see his Bricks, who shall forthwith attend the Service; and be paid by the Brick Maker *two Pence per Thousand* for all Bricks by him viewed; and *one Penny* for each Mould by him sealed; the Select-Men of the Town to provide a Seal: Any Law, Usage or Custom to the contrary notwithstanding. Brick Maker to call the Viewer before sitting. His Fee.

C H A P. III.

An Act for further Regulation of the Ferry betwixt *Boston* and *Winifsimmit*, within the County of *Suffolk*.

WHEREAS notwithstanding the Provision made, in and by the Act passed in the eighth Year of the Reign of his late Majesty King William the Third, Entitled, An Act in Addition to the Act for regulating Ferries: There is still great Complaint of Neglect of a due Attendance of the Ferry from *Boston* to *Winifsimmit*, and from thence to *Boston*; to the grievous Delay, Inconvenience and Damage of Travellers, and others constantly resorting thither for Passage: And there being but one Boat on a Side hitherto provided to tend the said Ferry; and the River wide, and the Number of Passengers much increased, by the Growth of the Towns on the Road in which the said Ferry lies: 6 W. & M. ca. 6.
8 W. ca. 7.
4 G. ca. 4.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same. That for the more speedy Transportation of Passengers, especially Posts, there be from hence-forth at all Time and Times here-after, a third sufficient suitable Boat and Appurtenances, with able, sober Persons to row in her, provided and kept constantly to attend the said Ferry; for the transporting of Passengers, Horses, and other Things over the River; one of the three Boats in Turns to be always passing on the Water, from Side to Side, in all proper Seasons when Boats may safely pass; not being obstructed by Ice, or extraordinary stormy Weather; and as one of the said three Boats shall land on either Shoar, the other Boat on the same Side shall put off Immediately. The three Boats to continue plying from Side to Side, with all Industry and Diligence daily, (except on the Lord's Day, and then to pass no oftner than Necessity shall require) from Sun rise, until nine of the Clock at Night, from the first of April until the first of October; and until eight at Night, from the first of October to the first of April annually; and after those Hours upon any necessary Occasion, especially Posts; for which there shall be paid *two Shillings* except Posts, if it be with one Person only, and if more, than double Ferrage for the whole Number, over and above the *two Shillings* among all the Passengers in equal Proportion. And that two Boats be lodged on *Winifsimmit* Side every Night, and one on *Boston* Side. And the Ferry-Men employed in the said Boats respectively, are required to give constant and diligent Attendance; and not to deny or delay the speedy carrying over any Passenger or Passengers, especially Posts, according to the true Intent and Meaning of this and the former Laws relating to Ferries; under the Penalty therein provided. Three Boats to be kept. To be constantly plying.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Ferry-Men to demand and receive pay of all Passengers, except Posts, before they set them on Shoar; and that they shall not be required or obliged to Exchange for above the Value of *three Shillings* and *six Pence*, where the Ferrage does not exceed that Sum. Ferry-men to demand Pay of Passengers before landing.

And that the Town of *Boston*, and the Proprietors of the Farm on *Winifsimmit* Side, who claim the Priviledge of the said Ferry, do respectively maintain, and from Ways to be kept from the landing Place to the Boat.

Militia. Indian Servants or Slaves.

from Time to Time keep in good Repair sufficient and convenient Ways, for passing to and from the Ferry-Boats from the landing Place on either Side : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. IV.

An Act for further Regulating of the Militia.

§ W. & M.
ca. 7.
11 W. ca. 4.

WHEREAS in the fifth Article of the Act, for regulating of the Militia; among other Things therein mentioned; “ Every listed Soldier and other “ House-holder (except Troopers) is to be provided with a good Sword or “ Cutlash, under the Penalty in the said Act mentioned : *And whereas it is found by Experience that Bayonets are of more Use, as well for Offence as Defence :*

Soldiers to be
provided of
Bayonets.

Be it therefore enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the twentieth Day of June next, every Person in the Town of *Boston*, who is obliged by the aforesaid Act to appear upon an Alarm at the Place of Rendezvous ; or where the chief Officer doth appoint, (except Troopers) shall be provided with a good Goosenecked Bayonet with Socket, fit to fix over the Muzzle of his Musket ; under the like Penalty as in the said Act is mentioned, for not being provided with a Sword or Cutlash.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-eighth of *May*, 1712. And continued by several Prorogations unto Wednesday the twentieth of *August* following, and then met, being their second Session.

C H A P. V.

An Act prohibiting the Importation or bringing into this Province, any Indian Servants or Slaves.

Preamble.

WHEREAS divers Conspiracies, Outrages, Barbarities, Murders, Burglaries, Thefts ; and other notorious Crimes and Enormities, at sundry Times, and especially of late, have been perpetrated and committed by Indians, and other Slaves, within several of her Majesty's Plantations in America ; being of a malicious, surly and revengeful Spirit ; rude and insolent in their Behaviour, and very ungovernable. The over great Number and Increase whereof within this Province, is likely to prove of pernicious and fatal Consequence to her Majesty's Subjects and Interest here, unless speedily remedied : And is a Discouragement to the Importation of white Christian Servants. This Province being differently circumstanced from the Plantations in the Islands, and having great Numbers of the Indian Natives of the Country, within and about them ; and at this Time under the sorrowful Effects of their Rebellion and Hostilities :

Indians bro't
in, to be for-
feited, unless
Security be
given to carry
them out a-
gain within
one Month.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, all Indians, Male or Female of what Age soever, imported or brought into this Province, by Sea or Land, from any Part or Place whatsoever ; to be disposed of, sold or left within the Province, shall be forfeited to her Majesty, for and towards the Support of the Government ; unless the Person or Persons importing or bringing in such Indian

Watches.

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Indian or Indians, shall give Security at the Secretary's Office of *fifty Pounds* per Head, to transport and carry out the same again, within the Space of one Month next after their coming in; not to be returned back to this Province.

And every Master of Ship or other Vessel, Merchant or Person whatsoever, importing or bringing in to this Province by Sea or Land, any Indian or Indians, Male or Female, within the Space of twenty-four Hours next after their Arrival or coming in, shall report and enter their Names, Number and Sex; and give Security in the Secretary's Office, as aforesaid, on Pain of forfeiting to her Majesty for the Support of the Government, the Sum of *fifty Pounds* per Head: To be sued for and recovered in any of Her Majesty's Courts of Record, by Action, Bill, Complaint or Information.

And the Fee to be paid for such Entry and Bond as aforesaid, shall be *two Shillings and six Pence*, and no more.

Indians bro't. in to be entred in the Secretary's Office, &c.

Fee for entry and Bond.

C H A P. VI.

An Act for Explanation, and in Addition to the Act for keeping of Watches in Towns; passed in the eleventh Year of the Reign of King *William* the Third.

WHEREAS Provision is made in and by a Paragraph or Clause in the said Act; That a Watch may be kept in Towns in other Manner than a Constables Watch, where the Members of the Council and Justices of the Peace, together with the Select-Men; and the Select-Men by themselves, where no Member of the Council or Justice dwells, shall judge it most for the Benefit and Safety thereof; the Inhabitants also agreeing to support the Charge:

11 W. ca. 8.

Be it declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same. That when, from Time to Time a Watch, in other and different Manner from a Constables Watch, shall be agreed upon and directed in any Town in Manner as afore-expressed; the Number and Qualification of the Persons whereof it shall consist, shall also be agreed upon as aforesaid; and one sober, discreet, able bodied House-holder appointed to take the Charge and Command thereof; and to see that the Watchmen do their Duty: Who, as a Badge of his Office shall carry a Quarter Pike with a Spire on the Top thereof; and every Watchman shall carry a Staff with a Bill fastned thereon, as is usual. And the said Officer and Watchmen are hereby respectively empowered and authorized, to prevent and suppress all Disturbances, Routs, unnecessary Noises and Disorders in the Night: To examine all Persons whom they shall find abroad after ten a Clock (other than known, sober orderly House-holders or Inhabitants) of their Business abroad, and whither they are going: And in Case they are Refractory, and give not a reasonable Account of themselves and Business; or are Persons of ill Fame, or justly suspected to have any unlawful Intention or Design; then to restrain and secure them, by Imprisonment or otherwise, and keep them safe until the Morning; and then carry them before a Justice of the Peace, to be examined and proceeded against according to the Nature of the Offence. And the said Watchmen are required to walk in and about the Streets, Wharffs, Lanes and principal Parts of the Town, to see that good Rule and Order be kept; and to suppress all Disorders and Misrule.

Qualification of Watchmen, and Badge.

Watchmen's Power.

Duty.

And when at any Time or Times, any one or more Members of the Council, Justices of the Peace, or Select-Men, shall think fit to walk by Night, to inspect the Orders of the Town wherein they dwell; as well the said Watchmen, as one or more of the Constables, are required to attend and accompany them, and to observe and obey their lawful Commands.

Watchmen & Constables, to attend the Members of the Council, Justices, &c.

And be it further enacted, That the Fee to the Goaler for Persons taken up in the Night, and committed to be secured only whilst the next Day, shall be *one Shilling*, and no more.

Fee for Commitment.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-eighth of *May*, 1712. And continued by several Prorogations unto Wednesday the eighteenth of *March* following, and then met ; being their fourth Session.

C H A P. I.

An Act in Addition to the Act, for making Lands and Tenements liable to the Payment of Debts.

8 W. ca. 3.
8 & 9 G. 2.
ca. 5.

WHEREAS in and by An Act made and passed in the eighth Year of the Reign of his late Majesty King William the third, Land and Tenements are made liable to the Payment of Debts : And whereas in practising upon the said Act, either through the Perverseness of the Creditor, or Corruption of the Officer, Executions for small Sums are sometimes laid on Part of Housing and Lands of great Value in such Manner, as grievously to discommode or spoil the Remainder, contrary to the good Intent of the said Act; the Party injured being without Remedy ever to recover his Estate back again :

For Prevention of such Inconvenience and Mischief for the future :

One Year's
Time allow'd
to recover
back Housing
or Lands tak-
en in Execu-
tion for Debt.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when any Land or Tenement, in Part, or in whole, shall be levied and taken in Execution for Debt ; it shall and may be lawful to and for the Party, or his Heirs whose Estate is so taken in Execution, within the Space of one Year next following the levying Execution thereon, and not afterwards ; to bring his Suit against the Creditor, or his Heirs, or Tenant in Possession, and recover back his Estate, upon paying the full Sum, for which the same was taken, with Interest from that Time ; and the reasonable necessary Charges and Disbursements laid out and expended thereon, for repairing or bettering of the same, over and above what and so much as the Rents, Profits and Improvements made thereof, shall fall short of Reimbursing such Charges ; to be accounted for by the Party for whom the same was taken in Execution, his Heirs or Assigns, agreeable to the Provision made in the Act for Equity of Redemption of Estates upon Mortgage forfeited for the Condition broken.

10 W. ca. 13.

The Time of
3 Years for
Redemption
of forfeited
Estates upon
Mortgage
when to
Commence.

And whereas in and by the afore-mentioned Act relating to the Equity of Redemption of mortgaged Estates forfeited, the Term of three Years therein limited for the Redemption, is diversly construed as to the Commencement thereof :

Be it enacted and declared, That the said Term of three Years shall be reckoned and accounted from the Time of the Mortgagee, his Entry into and taking Possession of such forfeited Estate : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act directing how Meetings of Proprietors of Lands lying in Common, may be called.

4 W. & M.
ca 13.
26 G. 2 ca. 2.

Preamble.

WHEREAS the Law has made Provision and impowred the Proprietors of Lands lying in Common, as well those already stated and divided, each ones Proportion being known, as those not stated, divided or proportioned as aforesaid ; to manage, improve, dispose and divide the same, in such Way and Manner as hath been or shall be concluded and agreed on by the major Part of the interested. But no Direction being given how a Meeting of such Proprietors may be orderly and regularly called and assembled :

Meeting of Proprietors of Lands. Fees.

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Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often as any five or more of the Proprietors of such common Lands shall judge a Proprietors Meeting to be necessary, they may make Application to a Justice of the Peace within the said County where such Lands lie, for a Warrant for the calling of a Meeting, expressing the Time, Place and Occasion thereof: And such Justice is hereby impowred to grant a Warrant for such Meeting accordingly, directed to one of the Proprietors, asking the same; or to the Proprietors Clerk, requiring him to notify the Proprietors of the Meeting, and the Time and Place for the same; which Notification shall be given in Writing posted up in some public Place or Places within the Town or Precinct where the Lands lie, fourteen Days before the Day appointed for the Meeting. And such and so many of the Proprietors as shall be assembled and meet accordingly, shall have Power by a major Vote to chuse a Clerk, to enter and record all Votes and Orders, that from Time to Time shall be made and passed in the Proprietors Meetings; who shall be sworn to the faithful Discharge of his Office, as the Law directs, for the swearing of Town Officers. And to agree upon, and appoint any other Way or Method of calling and summoning Meetings for the future, as shall be most suitable and convenient to the Proprietors. As also to pass Orders for the managing, improving or dividing such common Lands, not before stated and divided; the Voices always to be collected and numbred according to the Interests present, where the same is known.

Fourteen Days
Notice for a
Meeting.
2 G. ca 4.

Power to
choose a
Clerk.

And no other Affair shall be transacted at any Meeting of the Proprietors, than what is expressed in the Warrant or Notification for such Meeting.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston* upon Wednesday the twenty-seventh Day of *May*,
1713.

C H A P. III.

An Act in Addition to the Act for Regulating Fees; made and passed in the fourth Year of the Reign of King *William* and Queen *Mary*.

WHEREAS the Public Notaries Office is not mentioned in the said Act, and has hitherto been under no Regulation as to Fees, but wholly at Pleasure: 4 W. & M.
ca. 18.

Be it enacted by his Excellency the Governour, Council and Representatives now in General Court assembled, and by the Authority of the same, That the Fees to be demanded and taken in the said Public Notaries Office, for the Particulars following: Be as herein expressed, and no higher: under the Penalty in the afore-recited Act mentioned. *That is to say:*

	l.	s.	d.	
For drawing and making a Protest, <i>six Shillings</i> .	00	06	00	Protest.
For every Certificate under the Seal of the Office, <i>Four Shillings</i> .	00	04	00	Certificate.
For entering, and registering Protests, and other Writings for the first Page <i>twelve Pence</i> : and for so many Pages more as it shall contain <i>eight Pence</i> a Page, accounting after the Rate of twenty-eight Lines. of eight Words in a Line to each Page; and proportionably for so much more, as shall be under a Page: And <i>six Pence</i> for each Attestation on the Original.				Registering.
				Attestation.

178 Special Courts. Firing off Guns on Boston Neck.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-seventh of *May*, 1713. And continued by Prorogation unto Wednesday the fifth of *August* following, and then met; being their second Session.

C H A P. IV.

An Act for holding special Courts of Assize, and General Goal Delivery.

Preamble.

*W*HEREAS the Time set for holding a Superiour Court of Judicature, Court of Assize, and General Goal Delivery in the respective Counties, according to the present Establishment, is but once in six Months in and for any County; and in some Counties but once in twelve Months; by Reason of which Distance of Time Persons guilty of Murder may avoid Justice, either by making their Escape; or by the Death of the Witnesses: or otherwise great Charge may arise by long keeping such Criminals in Prison, and great Loss and Damage be occasioned to the Witnesses being long detained till the Coming of the Court, especially if they are not Inhabitants, or are Sea-faring Men: For Prevention of which Mischiefs and Inconveniencies:

A special
Court of As-
sise, and Ge-
neral Goal
Delivery.

10 G. ca. 4.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That it shall be lawful to and for the Governour, for the Time being, by and with the Advice and Consent of the Council, upon any extraordinary Occasion and Emergency, as aforesaid, by a Precept directed to the Justices of the Court of Assize and General Goal Delivery; to order and appoint them to hold a special Court, as soon as may be, for the Trial of any such capital Offender or Offenders; and to cause Venires to be issued forth for the summoning of Jurors for such Court out of the several Towns, as usual for the stated Courts: And to make out all other necessary Processes; and do what else shall be requisite, according to the Powers given them, in and by the Act for establishing a Superiour Court of Judicature, Court of Assize and General Goal Delivery.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-seventh of *May*, 1713. And continued by several Prorogations unto Wednesday the fourteenth of *October* following, and then met; being their third Session.

C H A P. V.

An Act to prohibit shooting or firing off Guns, near the Road or High-Way, on *Boston Neck*.

Preamble.

*W*HEREAS the Limbs and Lives of several Persons, have been greatly endangered in riding over *Boston Neck*, by their Horses throwing of them; being affrighted and starting, at the Firing of Guns by Gunners that frequent there after Game:

For

High-Ways.

For preventing whereof for the future :

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That no Person or Persons from and after the Publication of this Act, may presume to Discharge or Fire off any Gun upon *Boston Neck*, within ten Rods of the Road or High-Way leading over the same, on Pain of forfeiting and paying the Sum of *twenty Shillings*, for each Gun so fired or discharged : One Moiety thereof to be to and for the Use of the Poor in the said Town of *Boston* ; and the other Moiety to him or them that shall inform, complain, and sue for the same : To be recovered before the Court of General Sessions of the Peace within the County, or before any one or more of her Majesty's Justices of the Peace out of Court. And for the better Conviction of Persons offending against this Act ; it shall be lawful to and for any Freeholder to arrest and take into Custody any Gun so fired off, and render the same to one of the next Justices in *Boston*, in order to its being produced at the Time of Trial.

Penalty

Guns to be seized.

C H A P. VI.

An Act in Addition to the Law of this Province, Intituled,
An Act for High-Ways ; made in the fifth Year of the
Reign of the late King *William* and Queen *Mary*.

WHEREAS in and by the said Act, " The Select-Men of each Town " respectively within this Province, are thereby impowred by themselves " or others, to lay out or cause to be laid out only such particular and " private Ways, as may be judged necessary for their respective, Towns. . And whereas it may and does often happen, that the Lands of particular Persons or Proprietors, may be, and are so situated and circumstanced as to make or render a particular or private Way for the Use of such Person or Proprietor of absolute Necessity ; which is not provided for in and by the said Act :

5 W. & M.
ca. 8.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Select-Men of each Town respectively, are hereby impowred, by themselves, or others whom they shall appoint, to lay out or cause to be laid out particular or private Ways between any of the Inhabitants or Proprietors within their respective Towns, as shall be thought necessary, to or for any and every original Lot laid out or to be laid out in and by any Town or Proprietors, so as no Damage be done to any particular Person or his Propriety, without due Recompence to be made either by the Town if concerned, or such of the Inhabitants or Proprietors who desire and reap the Benefit of the same ; as the Select-Men and Parties concerned may agree ; or otherwise, as shall be ordered by the Justices of the Court of General Sessions of the Peace, as in and by the said Act is already directed and provided for.

Select-Men to
lay out parti-
cular or pri-
vate Ways.

And whereas it hath been (and may yet be) found by Experience, that the Select-men of many Towns within this Province, through Relation or other Interest have so very much delayed ; and at other Times absolutely refused to lay out or cause to be laid out particular or private Ways, for or within their several Towns when thereunto desired, and the same have been really necessary ; which hath been to the very great Damage and Grievance of Persons concerned :

Be it therefore further enacted by the Authority aforesaid, That when and so often as the Select-Men of any of the Towns within this Province, shall unreasonably delay or refuse to lay out, or cause to be laid out, any such particular or private Ways as aforesaid, to any such original Lot or Lots as aforesaid, being thereunto desired by one or more of the Inhabitants or Proprietors of Land within their Towns respectively ; that then, and in such Case, her Majesty's Justices of the Peace within the several Counties of this Province,

Justices im-
powred, by a
Committee,
to lay out par-
ticular or pri-
vate Ways.

Recompence.

at any of their General Sessions, may, and are hereby impowred, by a Committee whom they shall appoint, to lay out, or cause to be laid out such particular or private Ways, within or for such Town; or for or between any of the Inhabitants thereof, to or for any such original Lot or Lots, as aforesaid; so as no Damage be done to any particular Person in his Land or Propriety, without due Recompence to be made either by the Town, if it be of general Benefit; otherwise by such of the Inhabitants as have the Benefit of such particular or private Way, as shall be ordered by the Justices in their Sessions as aforesaid, upon Inquiry into the same, by a Jury to be summoned for that Purpose: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VII.

An Act to prevent the annoying or stopping up of Harbours; and the unjust taking off Ballast from the Shoar.

Penalty for
calling Ballast
into the Har-
bour, &c.

23 *It* enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Master or Commander of any Ship or other Vessel, coming from Sea into any Road, Port or Harbour within this Province, shall presume to unload or throw over-board, any Ballast or Rubbish into such Road, Port or Harbour, under the Penalty of *twenty Pounds*: And in the ballasting or unballasting any Ship or other Vessel, there shall be a Canvas or Tarpolin, which shall reach from the Ballast Port or Gunnel, to the Lighter or Boat; to prevent any Part of the Ballast or Rubbish falling into such Port, Road and Harbour as aforesaid. Nor shall any such Commander or Master, as aforesaid, take off any Sort of Ballast from any Island, Beach or other Land, being the Propriety of any Town or of any particular Person or Persons within this Province, without Leave first had and obtained from the Select-Men of such Town, or the major Part of them, or from such Person or Persons as they shall entrust therewithal, or other the Proprietor; under the Penalty of *Forty Shillings*; to be recovered before a Justice of the Peace.

Penalty for
taking Ballast
without
Leave.

Proviso.

Provided, That this Act shall not extend to the hindering any Commander or Master of any Ship or other Vessel, after they are under Sale outward Bound, who find a Necessity of taking in more Ballast, to take the same from off any Island, Beach or other Land, as above-mentioned, making Satisfaction therefor.

Forfeitures
how to be
disposed.

The Penalties arising by this Act, to be one Half thereof for the Use of the Poor of the Town where the Offence is committed; the other Half to the Use and Benefit of the Informer. The Penalty of *twenty Pounds* aforesaid, to be recovered by Bill, Plaint or Information, in any of her Majesty's Courts of Record within the respective Counties where the Offence shall be committed.

An Act,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-seventh of *May*, 1713. And continued by several Prorogations unto Wednesday the tenth of *February* following, and then met, being their fourth Session.

C H A P. VIII.

An Act in Addition to the Act for Upholding and Regulating of Mills.

3 A. ca. 1.

WHEREAS it hath been found by Experience, that when some Persons in this Province have been at great Cost and Expences, for building of Mills serviceable for the public Good and Benefit of the Town, or considerable Neighbourhood, in or near to which they have been erected; that in raising a

suitable

Causeless Arrests, &c.

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suitable Head of Water for that Service, it hath sometimes so hapned that some small Quantity of Lands or Meadows have been thereby flowed and damnified not belonging to the Owner or Owners of such Mill or Mills, whereby several Controversies, and Law Suits have arisen :

For Prevention whereof for the future :

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That where any Person or Persons have already, or shall hereafter, set up any Water Mill or Mills, upon his or their own Lands, or with the Consent of the Proprietors of such Lands legally obtained, where upon such Mill or Mills is, or shall be erected or built ; that then such Owner or Owners shall have free Liberty to continue and improve such Pond for their best Advantage, without Molestation.

Mills built on Lands by the Owners, or by their Consent to be continued.

And if any Person or Persons find themselves aggrieved and damnified in their Propriety of Lands, by its being flowed by the Owner or Occupant of such Mills stopping or raising the Water ; that in every such Case the Party so damnified in his Propriety, upon Application for Relief to the Court of General Sessions of the Peace in the County where such Mills or Pond is ; the said Court be and hereby are impowred to issue out a Warrant directed to the Sheriff of the same County, to summon and impanel a Jury of good and lawful Men at the proper Cost and Charge of the Owner or Owners of such Mill or Mills ; and the Jury shall be Sworn by a Justice of the Peace, to a faithful indifferent Appraisal of the yearly Damage done to the Person Complainant, by flowing his or their Land as aforesaid ; and the Jurors Verdict being returned by the Hand of the Sheriff, to the next Court of Quarter Sessions of the County, where such Mill or Pond is ; being allowed and recorded, shall be a sufficient Bar against any Action to be brought for any Damages occasioned by the flowing of any such Lands as aforesaid : Save only an Action of Debt, which the Complainant may bring for the Recovery of such yearly Sum or Sums of Money, from the Owner or Occupant of such Mill assent as aforesaid, during the Time of such flowing.

Remedy for Damage on Land being over-flowed

But if the Jury find no Damage for the Complainant, then he or they to be at the Cost of the Jury, as shall be allowed by the Justices of the said Court.

Acts and Laws,

Passed by the Great and General Court or Assembly of Her Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth of Day *May*, 1714.

C H A P. I.

An Act to prevent causeless Arrests, &c.

26 Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Person, Principal or Attorney, Executor or Administrator taking out a Writ or Attachment against another, before he receive it out of the Clerk's Office, shall endorse his Sir Name on the back thereof towards the Bottom ; and shall stand chargeable and be liable to answer and pay to the adverse Party his Costs arising by the Arrest, and charge of Imprisonment (if any be) to be taxed in common Form by the Judges of the Court where the Writ is returnable in Case of non Prosecution, Discontinuance ; or that the Plaintiff be Non-suit, or Judgment pass against him, to be levied on the Principal, the Executor, Administrator or Attorney, that endorsed or took out such Writ ; if the Principal be without the Province or be unable to pay the same.

1 & 2 G. 2. ca. 13
Writs to be endorsed.

And no Person shall entertain more than two of the sworn allowed Attorneys at Law, that the adverse Party may have Liberty to retain others of them to assist him, upon his Tender of the established Fee, which they may not refuse.

No Person to entertain more than two Attorneys.

And

Representatives. Cape-Cod.

Attorneys
mislaying the
Action to
draw a new
Writ without
a Fee.

And be it further enacted by the Authority aforesaid, That if the Plaintiff in any Action, suffer a Non-Suit through the Default, Negligence or Omission of his Attorney that drew the Writ, being an Attorney at Law, practising and legally admitted in the Courts of Law within this Province, by mislaying of the Action, or otherwise ; such Attorney shall draw a new Writ without a Fee, in Case the Plaintiff see Cause to revive his Suit.

C H A P. II.

An Act enlarging the Pay of the Representatives.

Preamble.

WHEREAS the Allowance by Law granted to the Representatives of the several Towns for their Service in attending of the Great and General Court or Assembly, as by Law established, is only three Shillings per Diem a Man ; which is not sufficient to answer the Charge of their Travel and necessary Expence :

4. W. & M.
ca. 19.

4 s. per Diem
to each Re-
presentative:

We it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from the beginning of this present Session and ever after, until this Court shall order otherwise, there be paid by each Town respectively four Shillings in Money per Diem, to each of their Representatives, during their Attendance on the Court, and for the necessary Time expended in their journeying to and from thence, to be paid within one Month next after the End of each Session respectively ; any Law, Usage or Custom to the contrary notwithstanding.

C H A P. III.

An Act for Preserving the Harbour at Cape-Cod, and Regulating the Inhabitants and Sojourners there.

Preamble.

WHEREAS the Harbour at Cape-Cod, being very useful and commodious for fishing, and the Safety of Shipping both inward and outward bound, is in Danger of being damnified, if not made wholly unserviceable, by destroying the Trees standing on the said Cape, (if not timely prevented ;) the Trees and Bushes being of great Service to keep the Sand from being driven into the Harbour by the Wind :

Penalty for
barking or
boxing Pine
Trees.

We it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person or Persons may presume to bark or box any Pine Tree or Trees, standing upon any of the Province Lands on the said Cape for the drawing of Turpentine ; on Pain of forfeiting and paying the Sum of ten Shillings, for each Tree so barked or boxed, and the Turpentine drawn from them, if to be found ; one Moiety thereof to her Majesty for the Support of her Majesty's Government within this Province, and the other Moiety to him or them that shall inform or sue for the same in any of her Majesty's Courts of Record within this Province.

The Lands on
Cape Cod made
a Precinct.

The Inhabi-
tants to settle
a Minister &
allow him 60l.
per Annum.

And be it further enacted by the Authority aforesaid, That whereas a Number of Inhabitants are settled upon the said Cape, and many others resort thither at certain Seasons of the Year to make fishing Voyages there, which has not hitherto been under the Government of any Town, or Regulation among themselves ; that henceforth all the Province Lands on the said Cape be a District or Precinct ; and the Inhabitants there are obliged to procure and support a learned orthodox Minister of good Conversation to dispense the Word of God among them, and to allow him sixty Pounds a Year Maintenance.

And

Burglary. Tar, Turpentine.

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And for the better enabling them to raise and pay the said yearly Maintenance, with the Assistance of such as sojourn among them at the fishing Seasons, and have the Privilege of the Audience with them :

Be it further enacted, That all and every Person and Persons coming to abide and sojourn there on fishing or whaling Voyages, during his and their Continuance and Abode there, shall pay *four Pence* a Man *per Week* weekly, to be paid by the Master of the Voyage or Boat, for his whole Company, to *Ebenezer Doan*, who is hereby appointed and impowred to be the first Collector and Receiver of the said Rate or Duty, on Behalf and to the Use of the Minister of the Precinct. And upon Neglect or Refusal of any Person or Persons to make Payment as aforesaid, to levy the same by Distress by Warrant to him directed from the next Justice of the Peace; such Justice being also hereby impowred upon Complaint to him made, to issue forth a Warrant of Distress accordingly.

Fishermen to
pay *four Pence*
a Week per
Man to the
Support of
the Minister.

Collector.

Distress.

And the said District or Precinct is hereby annexed and put under the Constablerick of *Truro*, until this Court take further Order: And the Select-Men or Assessors of *Truro* are hereby directed and impowred to assess and apportion on the Inhabitants of the said Precinct from Time to Time, such Sum and so much as the Duty as aforesaid, laid upon the Fishermen shall fall short of making up *sixty Pounds per Annum*, for the Minister, directed as aforesaid, and to make out a Warrant as the Law directs for the gathering of the said Assessment.

Put under the
Constablerick
of *Truro*.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-fifth of *May*, 1715.

C H A P. I.

An Act against Burglary.

WHEREAS notwithstanding the Laws already made for the punishing of criminal Offenders, many Persons of late have been so hardy as to break open in the Night, the Dwelling Houses of several of his Majesty's good Subjects, and have not only stolen their Goods, but put them in Fear and Danger of their Lives :

4 W. & M.
ca. 6.

Be it therefore enacted by the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Person or Persons shall here-after in the Night Time break and enter into any Dwelling House then inhabited, with a felonious Intent to rob or kill, or to do some other Felony; he or they so offending and being thereof convicted, shall be adjudged to suffer the Pains of Death; Any former Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act for the better preserving, increasing, and securing Naval Stores; particularly Tar, Turpentine, and Rozin, within this Province.

WHEREAS there has been Waste and Stroy made of the Pine Trees, and other Timber, within this Province :

For Prevention whereof :

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person or Persons may presume to cut or carry off any Tree, Trees, or Timber, bark or box any Pine

A 2

Tree

Tree or Trees, for the drawing of Turpentine standing upon any of the Lands belonging to this Province, Proprietors, Townships, or particular Persons, without Leave or Licence first had and obtained from the Owner or Owners thereof : on Pain of forfeiting and paying the Sum of *twenty Shillings*, for every Tree so cut or removed, bark'd or boxed. And the Turpentine drawn from them when found either in the Trees aforesaid, Barrels, or other Vessels lying upon the said Lands, to be a like forfeited : One Moiety thereof to the respective Owners of the said Land and Trees, the other Moiety to be to him or them that shall inform or sue for the same before any Justice of the Peace in the County where the Offence is committed ; if the Forfeiture exceed not *forty Shillings*, but if above that Value, in any of his Majesty's Courts of Record, within this Province.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-fifth of *May*, 1715. And continued by Prorogation unto Wednesday the twentieth Day of *July* following and then met.

C H A P. III.

An Act for building and maintaining a Light-House upon the Great Brewster (called *Beacon-Island*) at the Entrance of the Harbour of *Boston*.

Preamble:
24 G. 2. ca. 2.

WHEREAS the Want of a Light-House at the Entrance of the Harbour of Boston, hath been a great Discouragement to Navigation, by the Loss of the Lives and Estates of several of his Majesty's Subjects :

For Prevention whereof :

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That there be a Light-House, erected at the Charge of the Province, on the souther-most Part of the Great Brewster called *Beacon-Island*, to be kept lighted from Sun-setting to Sun-rising.

Duty to be paid.

That from and after the building of the said Light-House, and kindling a Light in it, useful for shipping coming into or going out of the Harbour of *Boston*, or any other Harbour within the *Massachusetts-Bay*, there shall be paid to the Receiver of Impost, by the Master of all Ships and Vessels, except Coasters, the Duty of *one Penny per Tun* inwards ; and also *one Penny per Tun*, outwards, and no more, for every Tun of the Burden of the said Vessel, before they load or unload the Goods therein.

Measure of Vessels.

And that all Vessels having two Decks shall be measured upon the Main-Deck, from the Stem to the Stern Post, then subduſting the Breadth from Out-Side to Out-Side athwart the main Beam, the Remainder to be accounted her Length by the Keel, which being multiplied by the Breadth aforesaid, and the Product thereof multiplied by one Half of the said Breadth as the Depth of the Hold : And the whole Product divided by one Hundred, the Quotient shall be accounted the Tunnage of said Ship or Vessel ; and all Ships or other Vessels having a single Deck, or Deck and Half, to be measured in the same Manner (except the Depth in Hold) which shall be from the Under-Side of the Main Beam to the Cieling.

Coasters who.

That none shall be accounted Coasters by this Act, but such who import only Provisions, Tar, Pitch, Turpentine, or Lumber, whose Owners belong to this Province,

Registry of Deeds.

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Province, or the Provinces or Colonies of *Rhode-Island, Connecticut, New-York, Jerseys, Pennsylvania, Maryland, Virginia, North-Carolina* and *Nova-Scotia*; and that are *bonâ fide* bound to some of the fore-mentioned Governments; all such Coasters to pay only *two Shillings* each Time they clear out.

That all Fishing Vessels, Wood-Sloops, &c. employ'd in bringing of Fish, Wood, Stones, Sand, Lime or Lumber, from any of the Parts within this Province, coming into said Harbour of *Boston* &c. pay *five Shillings* at their first coming in or going out, and no further Payment to be demanded of them by the Space of one Year next following.

And the Commissioner or Receiver of Impost is hereby impowred by himself or Deputies, by him to be appointed, to collect and receive the several Duties aforesaid; to sue for and Recover the same by Action of Debt in the Inferiour Court of Common Pleas, in the County where said Vessel loads or unloads, wherein no Essoign or Wager of Law shall be allowed, nor more than one Imparlance; and where the Sum does not exceed *Forty Shillings*, before one single Justice of the Peace.

Duties how to be recovered.

And the Commissioner of Impost or Deputy shall attend at his Office at certain Hours *de Die in Diem*, for entring Ships and Vessels, and to give Certificate of paying the Duty thereof to the Naval Officer, for which he shall demand and receive *six Pence*, and no more.

Commissioner to attend at certain Hours.

And no Ships or Vessels shall be cleared by the Naval Officer, until such Certificate be produced that the Duty of the Light-House be paid; and the Ship with Master shall stand charged with the Duty thereof; till paid to the Commissioner of Impost.

Naval Officer not to clear, until, &c.

And be it further enacted by the Authority aforesaid, That the Person who shall be appointed from Time to Time by the General Court or Assembly to be the Keeper of the said Light-House, shall carefully and diligently attend his Duty at all Times in kindling the Lights from Sun-setting to Sun-rising, and placing them so as they may be most seen by Vessels coming in or going out; and upon Conviction of Neglect of his Duty before the Court of General Sessions of the Peace within the County, shall be liable to be fined according to the Degree and Circumstances of his Offence, not exceeding *One Hundred Pounds*; two thirds thereof to be to his Majesty, to and for the Support of the Government of this his Majesty's Province, and the other third Part thereof to the Person or Persons that shall inform of such Neglect; to be recovered by Bill, Plaint or Information in any of his Majesty's Courts of Record within this Province.

Keeper of the Light-House carefully to attend his Duty.

Penalty.

C H A P. IV.

An Act for the more safe keeping the Registry of Deeds and Conveyances of Lands.

WHEREAS the Registering of Deeds and Conveyances of Lands hath for a long Time past proved very beneficial upon many Accounts:

Additional Act.

7 G. ca. 5.

12 G. ca. 3.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That for the more safe and convenient keeping the Registry of Deeds and Conveyances as aforesaid, there shall be chosen in each County within this Province, some discreet, suitable Person having a Freehold within the same, to the Value at least of *Ten Pounds per Annum*, to be the Register in such County, who shall be chosen by the Votes of the Freeholders of each respective Town, at their Meeting in *March* next, by the same Rule and Method as by Law is prescribed for the choosing of County Treasurers. And the Person so chosen and accepting thereof, being first Sworn before the Superiour or Inferiour Court, or two Justices within the County *Quorum Unus*; shall be and continue in the aforesaid Office five Years unless removed or displaced by Order of the Court of General Sessions of the Peace in such County, for Misdemeanour or Failure in his Duty; the said Officer to give Bond to the Value

A Register to be chosen by the Freeholders in *March*.

To continue five Years, unless.

To give Bond.

Fees. Limitation for Possession.

A new Election in Case.

The Office to be kept in the Shire Town.

of Five Hundred Pounds, with two Sureties, for the faithful Discharge of his Trust. And in Case of Non-acceptance, Death or Removal of any such Person so elected, two or more of his Majesty's Justices within such County *Quorum Unus*, are hereby impowred to grant out their Warrants, directed to the Select-Men of the several Towns within such County. ordering them forthwith to convene the Frecholders of their respective Towns, and proceed to the Choice of some other meet Person; the Votes to be brought in as aforesaid. And that there shall be a publick Office in the Shire Town of each County within this Province, for Registring of Deeds and Conveyances as aforesaid. And that the Fees for Registring shall be the same as is therefor already by Law established: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. V.

An Act in Addition to an Act for Regulating Fees.

4 W. & M.
ca 18.
3 G. ca. 6.

WHEREAS in the aforesaid Act there is not mention made of the Fees to be taken for many Things which may from Time to Time be entred, recorded, registred, and copied, either in the Secretary, or Clerks Offices, of the several Courts within this Province:

Fee for copying the Page.

Penalty.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That no Officer whatsoever shall ask, demand and take any more than *twelve Pence* a Page, each Page containing twenty-eight Lines, eight Words in a Line; and so proportionable for the entring, recording registring, and copying all and every Matter, and Thing whatsoever; on pain of forfeiting and paying the like Sum of *ten Pounds*, as by the aforesaid Law is provided.

C H A P. VI.

An Act in Addition to an Act of Limitation for quieting of Possessions.

9 W. ca. 8.

WHEREAS the Limitation of Time for the Continuance of Possession by the aforesaid Act, did not extend or was understood to extend unto any Houses or Lands lying to the Eastward of Piscataqua-River, or in other the Frontiers referred to in said Act; but, a further Time was enlarged and lengthened out for the Space of five Years next after the ending of the War with the Indians, during which Space all Persons might pursue their Right and Claim to any Houses and Lands lying in those Parts: And forasmuch as since the enacting the aforesaid Law, the Peace was made and concluded with the said Indians in the tenth Year of the Reign of his late Majesty King WILLIAM; notwithstanding which the aforesaid Indians broke out again into open War and Rebellion in the second Year of her late Majesty's Reign, and continued the same until the last Year; by Reason of which Ruptures Persons could not without great Hazzard and Difficulty pursue their Right and Claim to Houses and Lands lying to the Eastward of Piscataqua-River, or in other the aforesaid Frontiers; And in as much as the settling of the Eastern Parts and Frontiers will be of great Benefit to this Province: The Accomplishment whereof will be very much retarded and hindred unless Persons can be secured in their Purchases and Possessions:

Five Years Time further.

Be it therefore enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That there shall be a further Time of five Years from the last of this Instant July, one Thousand seven Hundred and fifteen, allowed all Persons to pursue their Right and Claim to any Houses and Land in those Parts and Places and every of them, and no longer. And all Actions and Processes to be thereafter brought for the same, are hereby excluded and for ever debarred.

Provided

Powder-house. &c.

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Provided always, That there shall be a Saving of all public Lands belonging to this Province, not orderly disposed of. Proviso.

Provided also, That this Act shall not be understood to bar the Title of any Infant, *Feme Covert*, or Person *non compos Mentis*, imprisoned or in Captivity; who shall be allowed the Term of five Years next after such Imperfection removed, to pursue their Claim or Challenge to any Houses or Lands wherein they have Interest or Title: And the Time of five Years shall be allowed to Persons having an Estate in Reversion in any Houses or Lands, from the Time such Reversion falls to recover their Right: And Persons beyond Sea shall be allowed the Term of ten Years from the Publication of this Act, to pursue their Claim and Challenge to any Houses or Lands, as aforesaid. Interest, &c.
Five Years
after, &c.
Persons beyond Sea ten
Years.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-fifth of *May*, 1715. And continued by several Prorogations unto Wednesday the twenty-third Day of *November* following, and then met.

C H A P. I.

An Act in Addition to an Act for erecting of a Powder-house in *Boston*.

WHEREAS the Confiscation of Powder kept in Houses and Ware-houses, has not been found sufficient to deter Men from so keeping the same, to the great Discouragement and Damage of such as assist in Time of Fire, to endeavour the extinguishing thereof: 5 A. ca. 3.
5 G. ca. 2.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication hereof, any Person within the Town of *Boston*, that shall presume to keep in his House or Ware-house any Powder, above what is by Law allowed, shall forfeit and pay for every Half Barrel, the Sum of *Five Pounds*, and so *pro rato* for every greater Quantity over and above the Forfeiture or Confiscation of the said Powder; one Moiety thereof to be for the Use of the Poor of the Town, to be paid to the Town Treasurer, the other Moiety to the Firewards, or any others that shall sue for the same. Penalty.

And be it further enacted by the Authority aforesaid, That the Quantity of Powder allowed to be kept in Shops for Sale in *Boston* do not exceed twenty-five Pounds: Any Law, Usage or Custom to the contrary thereof notwithstanding. *Saving nevertheless*, The ordinary Town Stocks, as in the afore-recited Act is expressed. Quantity of
Powder al-
low'd to be
kept in Shops.

And whereas there is often Danger by careless Persons carrying Powder thro' the Town uncovered:

Be it therefore enacted by the Authority aforesaid, That after the Publication of this Act, no Person whatsoever presume to carry thro' the Town any half Barrel, Barrel or Barrels of Powder, unless secured by some sufficient covering of Leather or Cloth spread over it; on Penalty of forfeiting *Ten Shillings per Barrel*, for each Offence, and so *pro rato* for Casks of lesser Size, to be recovered of the Persons carrying the same; by Bill, Complaint or Information before any Court proper to try the same. Powder to be
covered when
carried thro'
the Town.
Penalty.

And whereas the Town of *Boston* has often been in great Hazzard of Fire, by throwing of Squibs, Serpents and Rocketts, and by the performing of other Fire-Works:

Penalty for
throwing
Squibs, &c.

It is further enacted by the Authority aforesaid, That any Person or Persons whosoever that shall throw any Squibs, Serpents or Rockets or perform any other Fire-Works within the Streets, Lanes or Alleys in the Town of *Boston*, or upon or from the Houses within the same, shall forfeit and pay the Sum of *twenty Shillings* for every such Offence, to be recovered by Bill, Plaint or Information, before a Justice of the Peace, or in any of his Majesty's Courts of Record; the one Half of the aforesaid Fines to be to the Informer, and the other Moiety to the Use of the Poor of the Town.

Children and
Servants to be
fined or pun-
ished for
throwing
Squibs, &c.

Parents or
Masters to
pay for Chil-
dren under
the Age of
12 Years.

Firewards to
sue for the
Fines.

And be it further enacted by the Authority aforesaid, That if any Children or Servants of the Age of twelve Years and upwards shall offend against this Act in any of the Particulars therein mentioned, and their Parents or Master refuse to answer the Forfeiture or Damage awarded against them; they shall be punished by setting in the Stocks or Cage, or by Imprisonment, not exceeding twenty-four Hours, at the Discretion of the Court or Justice before whom the Prosecution shall be, according to the Nature and Degree of the Offence, and Circumstances aggravating. And the Parents or Masters of any Child or Servant under the Age of twelve Years, shall pay a Fine of *Ten Shillings* for any such Child or Servant transgressing, as aforesaid.

And the Firewards are hereby directed to take effectual Care to put this Act in Execution, and are fully impowred to sue for, recover and take the several Fines and Forfeitures afore-mentioned, by Bill, Plaint or Information, in any of his Majesty's Courts of Record within this Province.

CHAP. II.

An Act for preventing Damage to the Housing and other Estate, within the several Towns of this Province.

Preamble.

WHEREAS many Persons of late have been so mischievous, more especially in the Time of public Rejoycings, as to break the Glafs Windows of several Houses, and to commit divers other Insolencies in one or more of the Towns within the said Province:

For Prevention whereof for the future:

Glafs Win-
dows not to
be broken.

Fences not to
be broken.

Penalty.

Treasurer im-
powred to sue
for the Fines.

Persons refus-
ing to pay the
Fine to be
punished.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act if any Person or Persons shall wilfully break the Glafs Windows of any House within any of the Towns of this Province, either those made Use of for public Occasions or belonging to any private Person, or, by throwing Stones, Snow-Balls, kicking Foot-Balls, or any other Ways; or shall wilfully break down any Fences belonging to any such House or Houses, or any Pastures or other Inclosures, and be thereof legally convict before one or more of his Majesty's Justices of the Peace within such County, or before the Court of General Sessions of the Peace within the County where such Town lies, he or they so offending shall not only be liable to the Suit or Action of the Owner or Possessor of such House or Fences so damnified, but shall also pay a Fine of *twenty Shillings* at least, and not exceeding the Sum of *Five Pounds*, for the Use of the Poor of the said Town.

And be it further enacted by the Authority aforesaid, That the Treasurer for the Time being of the Town where the Offence is committed, be, and hereby is directed and impowred to sue any Person or Persons who shall do any Damage as aforesaid, to any of the Houses made Use of by the Publick, either on civil or religious Accounts, or to any of the Publick Burying-Places; and the Money recovered on such Suit shall be appropriated for the repairing of such House or Houses, or Burying-Places so damnified.

And be it further enacted by the Authority aforesaid, That if any Person or Persons offending against this Act, and being thereof convict; shall refuse to pay the Fine above-mentioned (or when they are Children or Servants their

Wolves. Town-Meetings.

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their Parents or Masters shall refuse to pay the same) he or they so convict shall be punished by Whipping, setting in the Stocks or Cage, or by Imprisonment, at the Discretion of the Court or Justice before whom the Prosecution shall be, according to the Nature and Degree of the Offence and Circumstances aggravating the same.

C H A P. III.

An Act in further Addition to the Act for encouraging the killing of Wolves, made in the fifth Year of the Reign of King *William* and Queen *Mary*.

5 W. & M.
ca 2.
7 W. ca. 5.
7 G. ca. 3.

WHEREAS it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, the Reward for killing a grown Wolf shall be the Sum of *forty Shillings*, to be paid according to the Provision made in said Act.

Wolves to be
destroy'd.

Reward.

And for as much as some Towns in this Province have suffered in their Sheep by unruly and ravenous Dogs :

Be it enacted by the Authority aforesaid, That whensoever it shall happen that any Dog shall kill or wound any Sheep, and Proof be made thereof before any of His Majesty's Justices of the Peace for the County where such Damage is done, the said Justice is required speedily to notify the Owner of said Dog of such Damage ; and if said Dog be not killed within forty eight Hours after such Notice given, the Owner shall forfeit the Sum of *five Pounds*, to be recovered by Action, Bill, Plaint or Information, in any of His Majesty's Courts of Record within this Province, and to be disposed for the Use of the Poor of the Town where the Damage is done ; and the said Owner shall be further liable to the Action of any Person damnified, as aforesaid.

Unruly and
ravenous
Dogs to be
destroyed:

Penalty.

C H A P. IV.

An Act for the better Regulating of Town and Proprietary Meetings.

WHEREAS by Reason of the disorderly Carriage of some Persons in said Meetings, the Affair and Business thereof is very much retarded and obstructed :

Preamble.

For preventing whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That at every such Meeting a Moderator shall be first chosen by a Majority of Votes, who shall be thereby impowred to manage and regulate the Business of that Meeting. And when it shall so happen that any Matter remains doubtful after a Vote, the Moderator is hereby directed and required that the same be decided by the Poll ; if seven or more desire it, presently after the Vote is called in Question ; in Proprietary Meetings the said Polls to be numbred according to their Interest.

Moderator to
be chosen by
the Majority
of Votes.

And be it further enacted, That no Person presume to speak before Leave first obtained from the Moderator ; nor when any other is orderly speaking. And that all Persons be silent at the Desire of the Moderator, under the Penalty and Forfeiture of *five Shillings*, for the Breach of every such Order. And if any Person being by the Moderator notified of such Offence shall still persist in the same, that then the Moderator shall order such Person to withdraw from said Meeting, and such Offender upon his Refusal thereof, shall forfeit and pay the Sum of *twenty Shillings* ; the respective Forfeitures to be recovered by the Town-Treasurer of such Town, wherein any of the aforesaid Offences shall be committed,

Penalty on
Persons speak-
ing without
leave from the
Moderator.

Town Trea-
surer to reco-
ver the Fines.

committed, before any one or more of His Majesty's Justices of the Peace for the County wherein such Town lies, to be disposed of; the one Half for the Use of the Poor of said Town, the other Half to the said Town-Treasurer.

Ten or more
Freeholders
may desire a
Town-Meet-
ing.

And be it further enacted, That when and so often as ten or more of the Freeholders of any Town shall signify under their Hands to the Select-Men their Desire to have any Matter or Thing inserted into a Warrant for calling a Town-Meeting, the Select-Men are hereby required, to insert the same in the next Warrant they shall issue, for the calling a Town-Meeting. And that no Matter or Thing whatsoever, shall be voted or determin'd but what is inserted in the Warrant for calling said Meeting.

4 W. & M.
ca. 19.

Provided, That Town-Meetings for Choice of Representatives be regulated by the Select-Men, as is ordained in the fourth Year of King WILLIAM and Queen MARY.

C H A P. V.

An Act in Addition to the Act Intituled, An Act for regulating of Townships, Choice of Town-Officers, and setting forth their Power, made and passed in the fourth of *William and Mary*.

4 W. & M.
ca. 13.

BE it enacted and declared by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That where any Person or Persons is convicted of the Breach of a Town Order or By-Law before a Justice of the Peace, and neglect, or be unable to pay their Fine; that in every such Case, it shall and may be lawful to and for such Justice, to Order such Person or Persons either to stand committed to the Goal of the County, by the Space of twenty-four Hours, and not exceeding five Days, or be set in the Cage or Stocks, not exceeding the Space of four Hours.

C H A P. VI.

An Act in Addition to an Act Intituled, *An Act for the Settlement and Distribution of the Estates of Intestates*, made and passed in the fourth Year of the Reign of King *William and Queen Mary*.

4 W. & M.
ca. 2.

BE it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled and by the Authority of the same, That where two or more have Letters of Administration granted them of any Intestates Estate, and one or more of them take all or the greatest Part of such Estate into his or their Hand or Hands, and refuse to pay the Debts or Funeral Charges of such Intestate, or come to an Accompt with the other Administrator; that then and in such Case, it shall and may be lawful for such Administrator aggrieved, to bring his Action of Accompt against the other Administrator or Administrators of the Estate of the Intestate, in his or their Hands, and recover his proportionable Part or Share of such Intestates Estate, as shall belong or appertain unto him, after Debts, Funeral Charges, and other Dues of the Intestates are fully satisfied and paid: Any Law Usage or Custom to the contrary thereof in any wise notwithstanding.

Billerica Bridge. Custom-House Officers Fees. 191

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirtieth of *May*, 1716.

C H A P. VII.

An Act relating to the great Bridge in *Billerica*.

WHEREAS the Agents for the Towns of *Billerica* and *Chelmsford*, Preamble.
by Direction of the said Towns in their Petition to this Court at
their present Session, have shewed forth, that there is a Great Bridge ^{5 W. & M.}
erected over *Concord-River*, in the Township of *Billerica*, and that the said Bridge ^{ca. 8.}
was built by the Towns of *Billerica*, *Chelmsford* and *Groton*; and according
to a former Settlement made by a Committee appointed for the Settlement of
the Charge of the Bridges in the County of *Middlesex*. But the Town of
Groton, upon Application to this Court in 1699, did obtain a Discharge from
either building or repairing for the future, without further Order from this Court.
And further it was alledged in the said Petition, that the said Bridge is fal-
len into such Decay, that it is no Ways profitable to Repair, or safe to Improve
any longer as it now is, but that the same must of Necessity be new-built; and
that it is apprehended the Charge will be so great that the Burthen will be
too heavy for *Billerica* and *Chelmsford* to bear, for the Reasons therein given,
which more properly ought to come under Consideration of the Justices of the
Court of General Session of the Peace in the County of *Middlesex* :

Be it therefore declared and enacted by the Honourable the Lieutenant
Governour, Council and Representatives, in General Court assembled;
and by the Authority of the same, That the Matters contained in the said
Petition be referred to the Consideration of the Justices of the Court of General
Sessions of the Peace for the said County of *Middlesex*, at their Quarter Sessions;
who are hereby fully authorized and impowred to take such Order about the
said Bridge from Time to Time, and at all Times hereafter, as shall be judged
meet and convenient, and to settle the Charge of the same, upon any, or every
the Towns of the said County. And the Paragraph in the Law exempting the
Town of *Groton*, from the Charge of the said Bridge, is hereby repealed, and
made null and void. ^{Refer'd to the Justices of the General Sessions of the Peace for the County of Middlesex. Groton.}

C H A P. VIII.

An Act stating the Fees of the Custom-House Officers within this Province.

BE it enacted by the Lieutenant Governour, Council and Repre-
sentatives in General Court assembled, and by the Authority
of the same, That the Fees to be hereafter demanded and received in
the Collector's Office shall be these following, and none other.

	<i>l.</i>	<i>s.</i>	<i>d.</i>	Fees stated.
To the Collector for a Register <i>six Shillings</i> .	00	06	0	
For endorsing the same, <i>two Shillings</i> .	00	02	0	
A Certificate for Naval Stores, <i>three Shillings</i> .	00	03	0	
For all Foreign Vessels entring Inwards, and Permit, <i>six Shillings</i> .	00	06	0	
For the Comptroller, where any such Officer is appointed } for the same, <i>one Shilling</i> .	00	01	0	
To the two Waiters, <i>six Pence</i> each.	00	01	0	
For all Foreign Vessels clearing Outwards the same as entring Inwards.				

Regulating Fees of Admiralty.

To the Collector a Certificate of unloading enumerated Goods, } <i>three Shillings.</i>	00	03	0
To the Comptroller for the same, <i>one Shilling.</i>	00	01	0
Coasting Vessels to the neighbouring Colonies.			
Entring Inwards and permit to unload as far as <i>Connecticut</i> and } <i>New-Hampshire, two Shillings.</i>	00	02	0
The same Outward, <i>two Shillings.</i>	00	02	0
Entring Inwards from <i>Annapolis, New-York</i> , and the Colonies } thence to <i>South-Carolina</i> , and a Permit to the Collector, } <i>five Shillings.</i>	00	05	0
To the Comptroller, <i>one Shilling.</i>	00	01	0
Clearing Outwards the same, <i>six Shillings.</i>	00	06	0
Cocquet for European Goods to the said Provinces.			
To the Collector, <i>two Shillings.</i>	00	02	0
To the Comptroller, <i>one Shilling.</i>	00	01	0
And every Cocquet for European Goods bought at the Shops or } elsewhere, (tho' including several Parcels which may be entred } together by the Master) to the Collector, <i>three Shillings.</i>	00	03	0
To the Comptroller, <i>one Shilling.</i>	00	01	0
Coasters from Port to Port within this Province carrying Merchandize.			
Entring, <i>one Shilling.</i>	00	01	0
Clearing, <i>one Shilling.</i>	00	01	0
A Bill of Store, to the Collector, <i>one Shilling</i>	00	01	0
To the Comptroller, <i>one Shilling.</i>	00	01	0

And that all the Roads and Harbours from *Cape-Cod* on the South-Side, (within the Bay) to *Boston*, be deemed the Port of *Boston*, until an Naval Office be settled in them.

10 l. Penalty. And be it further enacted by the Authority aforesaid. That if any Person or Persons employed in the said Office shall demand, or take other or greater Fees than by this Law are allowed, shall be subject to the Penalty of *ten Pounds*, as is provided by an Act, intituled, *An Act for regulating Fees, made and passed in the fourth Year of the Reign of King William and Queen Mary.* Or shall illegally delay or defer entring or clearing any Ship or Vessel, and dispatching any Merchant in their Course; such Officer so offending shall be liable to Cost and double Damages, being thereof duly convicted in any of his Majesty's Courts of Record within this Province. And every Officer in this Province shall have a List of Fees hanging up in his Office on the said Penalty.

Officers of-
fending liable
to Cost.

C H A P. IX.

An Act in Addition to the Act for Regulating Fees, made and passed in the fourth Year of King *William* and Queen *Mary*; stating the Fees of the Officers of the Court of Admiralty.

4 W. & M.
ca. 18.

23 E it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Fees to be hereafter demanded and received in the Court of Admiralty, shall be these following, and none other.

Admiralty
Fees stated.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For Condemnation of every Prize above one Hundred Tuns, } <i>fifteen Pounds.</i>	15	00	0
Condemnation of every Prize under one Hundred Tuns, } <i>ten Pounds.</i>	10	00	0
Every Summons for Trial, to the Register, <i>two Shillings.</i>	00	02	0
To the Marshal for serving, <i>four Shillings.</i>	00	04	0
			Filing

Mean Process in Civil Actions. Settling Grants. 193

Filing and allowing every Libel.

To the Judge, <i>six Shillings and eight Pence.</i>	00	06	8
To the Register, <i>six Shillings.</i>	00	06	0
Every definitive Decree, to the Judge, <i>one Pound.</i>	01	00	0
To the Register, recording, <i>six Shillings and eight Pence.</i>	00	06	8
To the Marshal and Cryer, <i>eight Shillings.</i>	00	08	0
Filing Papers, examining and taxing Cost, to the Judge, <i>two Shillings.</i>	00	02	0
The Register, <i>two Shillings.</i>	00	02	0
A Warrant of Apprizements, to the Register, <i>six Shillings.</i>	00	06	0
A Warrant to take up Deserters, Run-aways, &c. to the Register, <i>six Shillings.</i>	00	06	0
For every Copy of Record, <i>twelve Pence per Page, twenty-eight</i>	00	00	8 a fortune.
Lines to a Page, and eight Words to a Line. <i>1 page</i>			
The Attorney or Advocates Fees, <i>twelve Shillings.</i>	00	12	0

And be it further enacted by the Authority aforesaid, That if any Person or Persons employed in the said Court shall demand or take other or greater Fees than by this Law are allowed; he or they shall be subject to the Penalty in said Act provided, and shall be liable to Cost and double Damages, being thereof duly convicted in any of his Majesty's Courts of Record within this Province.

CHAP. X.

An Act in further Addition to an Act Intituled, *An Act relating to Sureties upon Mean Process in Civil Actions*, made and passed at a Session of the General Court or Assembly the eighth of November, 1693. in the fifth Year of the Reign of King William and Queen Mary.

WHEREAS in the said Act it is provided, "That all Writs of Scire Facias shall be taken out and served upon the Sureties within twelve Months after the first Trial, and not afterwards." And forasmuch as in several Counties within this Province, the Superiour Court of Judicature, Court of Assize and General Goal Delivery, is held and kept but once within twelve Months, whereby the Party or Parties that recover Judgment at such Superiour Courts, can have no Benefit of the said Act:

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That Writs of Scire Facias may be taken out and served upon Sureties for the Space of two Years after the Trial, upon an Appeal in all such Counties where a Superiour Court of Judicature &c is held but once in a Year. Any Law, Usage or Custom to the contrary notwithstanding.

Writs of Scire Facias served upon Sureties within two Years after Trial.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England, Begun and Held at Boston, upon Wednesday the thirtieth of May, 1716. And continued by several Prorogations unto Wednesday the seventh Day of November following, and then met.

CHAP. I.

An Act for settling of Grants.

WHEREAS sundry Grants of Lands have been made by the General Court at divers Times unto particular Persons, of which Grants, the greatest Part has been taken up, but some may be yet standing out:

Preamble.

Persons to
bring in their
Grants within
three Years.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same. That all Persons claiming a Right to any Tract or Tracts of Land by Grant from the General Court, and not yet laid out, shall within the Space of three Years from the Publication of this Act bring a Copy of their Grant to the General Assembly of this Province, in order to have the same laid out and confirmed to them; and all such as neglect or refuse to bring in their Claims, as abovesaid, shall forfeit their Right to such Grants.

Proviso.

Provided, This Act be not understood to bar the Title of any Infant, Feme Covert, or Person *non Compos mentis*, imprisoned, in Captivity, or beyond the Seas; who shall be allowed the Term of three Years after such Imperfection removed, to pursue their Claim and Challenge to any Grants of Lands so made to them or their Predecessors; any Thing in this Act to the contrary notwithstanding.

CHAP. II.

An Act in Addition to the Act, Intituled, *An Act for the better Observation and keeping of the Lords-Day*, made and passed by the Great and General Court or Assembly at a Sessions held at *Boston*, the 12th Day of *October*, 1692. In the fourth Year of the Reign of their late Majesties, King *William* and Queen *Mary*.

4 W. & M.
ca. 8.

WHEREAS in and by the said Act, it is declared, " That no Trades-
" man, Artificer, Labourer, or other Person whatsoever, shall upon
" the Land or Water do or exercise any Labour, Business or Work
" of their ordinary Callings, nor use any Game, Sport, Play, or Recreation on
" the Lord's-Day, or any Part thereof (Works of Necessity and Charity only
" excepted) upon Pain that every Person so offending, shall forfeit *five Shillings* :
" And further, That no Traveller or Drover, Horse Courser, Waggoner,
" Butcher, Higler, or any their Servants shall travel on that Day or any Part
" thereof, except as by the said Law is excepted, upon the Pain of *twenty*
" *Shillings* : Notwithstanding which many Persons do presume to work and
travel on the said Day :

For the more effectual preventing such immoral and irreligious Practices :

Penalty of
10 s. on La-
bourers, &c.
and 20 s. on
Travellers
for the first
Offence.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That whoever shall for the future contrary to the said Act, do or exercise any Labour, Business, or Work of their ordinary Callings, or use any Game, Sport, Play or Recreation on the Lord's Day, or any Part thereof, shall forfeit and pay the Sum of *ten Shillings*; and all Persons travelling contrary to the said Act, the Sum of *twenty Shillings*. for the first Offence; and upon a second Conviction of either of the aforesaid Offences double the respective Sums afore-mentioned, and be also bound with Sureties for their good Behaviour to the next Sessions of the Peace in such County where said Offenders shall be convicted. And that if any Person being able of Body and not otherwise necessarily prevented, shall for the Space of one Month together absent themselves from the public Worship on said Day the Grand Jurors are hereby directed and required to present such Person to the General Sessions of the Peace, who unless they can make Proof they have not so absented themselves, but have attended divine Worship in some public Assembly, shall forfeit and pay the Sum of *twenty Shillings*. And in Case any of the Offenders mentioned in this Act shall be unable or refuse to satisfy their Fine; they shall be adjudged to be set in the Cage or Stocks, not exceeding three Hours, according to the Discretion of the Justices.

Persons to be
presented that
shall for one
Month Neg-
lect to attend
the publick
Worship.

Penalty 20 s.

Be

Criminal Offenders. Marriages.

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Be it further enacted by the Authority aforesaid, That the Fines and Penalties arising by this Act shall be disposed as by the said Law is already provided: Any Law, Usage or Custom to the contrary notwithstanding. Fines how disposed of.

C H A P. III.

An Act in Addition to the Act, Intituled, *An Act for the punishing Criminal Offenders.*

WHEREAS when any Person is apprehended for Theft or Robbery, and admitted to Bail, the Recognizance is only to the King, to answer for the Crime, whereby (in Case the Offender doth not appear but make Default) the Party injured loseth the Benefit of an Act, Intituled, *An Act for the punishing Criminal Offenders; which gives the Party injured treble Damages upon Conviction:* 4 W. & M. ca. 6.

For Remedy whereof:

Be it enacted by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Person shall be apprehended for any of the Crimes mentioned in those Paragraphs of the aforesaid Act which relate to Theft or Robbery, and be admitted to Bail, he shall not only recognize to the King's Majesty for his Appearance at the Court in said Recognizance mentioned, to answer for his Crime; but shall also enter into another Recognizance with sufficient Sureties to the Party injured, for treble of the Money, Goods or Chattles which he shall be charged with Stealing. And if the said Offender shall make Default, and not appear to take his Trial according to his Recognizance; in such Case the said Recognizance shall be declared forfeited by the Court where the said Criminal ought to have been tried, and the Party injured shall recover treble Damages against the Sureties, for so much as can be made appear to be stolen, as if the Offender had put himself on his Trial, and had been convicted; Any Law, Usage or Custom to the contrary notwithstanding. Persons apprehended for Theft, &c. admitted to Bail shall not only recognize to the King but also recognize with Sureties to the Person injured, &c.

C H A P. IV.

An Act in Addition to *An Act for the orderly consummating of Marriages*, made and pass'd in seventh Year of the Reign of King *William the Third.*

WHEREAS in and by the said Act, it is provided, "That no Person other than a Justice of the Peace, and that within his own County only; or ordained Minister, and that only in the Town where he is settled in the Work of the Ministry; shall or may presume to join any Persons together in Marriage: Nor shall any Justice or Minister join any Persons in Marriage other than such, one or both of whom are Inhabitants or Residents in such County or Town respectively:" 4 W. & M. ca. 10.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Power granted Ministers to join Persons together in Marriage be hereby enlarged; so as that where there shall be no settled ordained Minister in any Town or Precinct, or where the only settled ordained Minister of any Town or Precinct is himself to be married: It shall and may be lawful in such Cases for the next settled ordained Minister in another Town, within the same County, to join in Marriage the Minister or Inhabitants of such Town or Precinct destitute of such settled ordained Minister, if such Minister or Inhabitants desire it; according to the Rules prescribed by the Laws of this Province, for the consummating Marriages. Ministers Power to marry enlarged.

And

And be it further enacted by the Authority aforesaid, That every Allowance of Justice or Minister shall have *four Shillings* for each Marriage, and pay out of it *six Pence* to the Town Clerk, when they return their Certificate to him.

And whereas there is great Failure in returning Certificates of Marriages to the Town Clerk :

10 s. Fine. Be it enacted, That each Justice or Minister neglecting to make due Return to the Town Clerk, as the Law directs ; every of them shall pay a Fine of *ten Shillings* for such Neglect.

Town Clerk to give in to the Clerk of the Sessions a List of all Marriages. And be it further enacted, That every Town Clerk shall give in a true List of all Marriages returned to him by the Justices and Ministers respectively, unto the Clerk of the Sessions of the Peace in each County, sometime in the Month of *April* yearly, and every Year ; upon the Penalty of forfeiting *twenty Shillings* Fine, for every Neglect. And every Town Clerk shall pay *two Pence* to the Clerk of the Peace, for every Marriage returned by him, as aforesaid ; which shall be the Fee for the Clerk of the Peace for his recording the same. And each Fine is to be recovered by Bill, Plaint or Information in any Court of Record.

Proviso. Provided, That every Justice of Peace, or Minister, authorized to join Persons together in Marriage, every Clerk of the Peace and Town Clerk respectively, may be prosecuted upon this or any former Act relating to Marriages, within two Years after the Offence committed, and not afterwards : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. V.

An Act for the more effectual preventing Default in the Appearance of Jurors.

7 W. ca. 4.

Preamble.

WHEREAS the Mulcts or Fines set upon Jurors for not appearing and attending the several Courts of Justice within this Province, whereto they are respectively chosen and summoned, are by Law limited to the Sum of forty Shillings, by Reason whereof Persons most able and best qualified to perform that Duty oft-times choose rather to incur and undergo so small a Penalty than to perform that Service, which hath proved a general Inconvenience, tending greatly to the Damage of many Persons in Cases of the greatest Moment and Concern, as well as very much retarding the Business and Affairs of the several Courts :

For Remedy whereof :

Superiour & Inferiour Court to set Fines on Jurors that make Default.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Justices of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, and the Justices of the Inferiour Court of Common Pleas, and of the General Sessions of the Peace respectively, shall and hereby are required to set reasonable Fines upon all Jurors duly returned to serve in the said Courts, that make Default, unless necessitated thereto, by Reason of Sicknes, or some other extraordinary Lett or Hindrance ; not less than the Sum of *four Pounds*, nor exceeding the Sum of *six Pounds* each at the Discretion of the said Justices : And to cause the same to be levied and disposed of as by Law provided.

Petty Juries Allowance 13 Shillings.

And be it further enacted, That the Fee or Allowance to be paid to the Petty Jury for each Verdict shall be *thirteen Shillings* : Any Law, Usage or Custom to the contrary notwithstanding.

Fees. Coroners.

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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-ninth of May, 1717.

C H A P. VI.

An Act in Addition to and Explanation of two Acts referring to the Regulating of Fees, &c.

WHEREAS in the first Act for regulating of Fees, made in the fourth Year of King William and Queen Mary, there is an Article of two ^{Preamble.} Shillings and six Pence in the Secretary's Fees, for every Order of Council to the Benefit of particular Persons, under Pretence whereof Demand has been made in the said Office for the said Sum even for Orders for the Payment of the public and just Debts of the Government :

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That for the future no Fee whatsoever be or shall be due or demanded for any Order of the Governour and Council for the Payment of any public Debt, of, and from the Government.

And be it further enacted by the Authority aforesaid, That the Fee for any Petition to the Governour and Council referring to any Debt of the Province, as aforesaid, be two Shillings and six Pence and no more. ^{4 W. & M. ca. 12.}

And whereas in the late Act made in the first Year of his present Majesty's Reign, Intituled, An Act in Addition to the Act for Regulating of Fees, under Pretence of the Word Copying, all and every Matter and Thing whatsoever, (in the said Act) Demand has been made of Money or Fees, even for rough Draughts, and preparatory Copies, for the Use of the Publick, when the said Act was designed only for such Copies had and taken for private Use : ^{1 G. ca. 5.}

Be it therefore further enacted by the Authority aforesaid, That no Fee whatsoever shall be due or demanded in the said Office for any other Copies or copying, than such as are taken from fair Entries, Registers or Records, and those only for a private Use, and not for the Service of the Government : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VII.

An Act in Addition to an Act Intituled, *An Act relating to the Duty and Office of a Coroner*, made in the twelfth Year of King William the Third.

WHEREAS in and by the said Act, the Coroners of the several Counties of this Province, are impowred to serve and execute all Writs and ^{12 W. ca. 6.} Processes directed unto them against the Sheriffs of the same County : But no Provision is therein made to serve any Writ or Process wherein a Sheriff of the same County is or may be Plaintiff, and so a Failure of Justice may happen, if not Remedied :

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as the Sheriff or Sheriffs of any of the Counties within this Province, their Under-Sheriffs or Deputies, or any of them, are or may be concerned as Plaintiff, Complainant or Defendant in any Writ, Action or Process : That in such Case the Coroner of the same County shall be, and hereby is impowred to serve and execute the same : Any Law, Usage or Custom to the contrary notwithstanding. ^{Coroners impowred to serve Writs in Case &c. Additional Act. 12 G. ca. 4.}

C H A P.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-eighth of May, 1718.

C H A P. I.

An Act in Addition to an Act pass'd in the first Year of Queen Anne, Intituled, *An Act more effectually providing for the Support of Ministers.*

1 A. ca. 3.

WHEREAS in and by the said Act a Power is provided and given to the Select-Men of any Town from which any District or Precinct is set off, to assess the Inhabitants of the same, the Sums agreed on for the Support of the Minister, in Case the Assessors of such Precinct shall neglect or refuse to do the same, but no like Power with Reference to the Charge of building or repairing of the publick Meeting-Houses for the Worship of GOD, vested either in the Assessors or the Select-Men :

Assessors impowred to raise & assess Money for building Meeting-Houses.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when and so often as the major Part of the Inhabitants of any Precinct or District have, or at a Meeting of the same legally warned, shall agree on the building, finishing or repairing of any publick Meeting-House ; or the defraying any other necessary Charge for the Support of the Worship of GOD, and agree on any Sum or Sums of Money for that Purpose, the Assessors of such Precinct or District are hereby impowred to assess and raise the same on their respective Inhabitants ; and in Case such Assessors shall neglect or refuse so to do, then and in that Case the Select-Men of the Town from which such Precinct or District is derived, are hereby impowred and required to assess the Inhabitants of such Precinct or District the Sum or Sums of Money so agreed on, to be collected and levied in like Manner as is directed in and by said Act : And all regular or legal Precincts or Districts are hereby also impowred to chuse a Committee or other Officers for the better Management of the Affairs of their respective District or Precinct as aforesaid.

Inhabitants of any Town from which several Districts are set off, their Power.

7 G. ca. 7.

And be it further enacted by the Authority aforesaid, That in all such Towns where there are or shall hereafter be one or more Districts or Precincts regularly set off ; the remaining Part of such Town shall be, and are hereby deemed, declared and constituted an entire, perfect District, Parish or Precinct (and the first or principal of said Town) and the Inhabitants thereof to have full Power to choose a Committee for the Regulation and Management of all Affairs relating to the Support of the publick Worship of GOD, and for the chusing all necessary and proper Officers in and for the said Precinct, Parish or District, and further to have all such Powers and Priviledges as by any of the Laws of this Province are given or annexed to any District or Precinct : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act in Addition to the several Acts for Settlement and Support of School-Masters, &c.

4 W. & M.

ca. 11.

13 W. ca. 20.

WHEREAS notwithstanding the many good and wholesome Laws of this Province for the encouraging of Schools, and the Penalty first of ten Pounds, and afterwards increased to twenty Pounds, on such Towns as are obliged to have a Grammar School-Master, and neglect the same : Yet by sad Experience it is found that many Towns that not only are obliged by Law, but very able to support a Grammar School, yet chuse rather to incur and pay the Fine or Penalty than maintain a Grammar School :

Be

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Penalty or Forfeiture for Non-observance of the said Law henceforth shall be *thirty Pounds* on every Town that shall have the Number of one Hundred and fifty Families, and *forty Pounds* on every Town that shall have the Number of two Hundred Families, and so *pro rata* in Case the Town consist of two Hundred and fifty, or three Hundred Families: To be recovered, paid and employed in Manner, and to the Use as by the Law is directed: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. III.

An Act in further Addition to an Act, Intituled, *An Act for Regulating Fences, Cattle, &c.* 5 W. & M. ca. 9, and References.

WHEREAS it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That in any and every Town of this Province where several Allotments of Upland and Meadow are inclosed and fenced in one general Field, or where there have been so inclosed, fenced and improved, or where all the Proprietors of such Land shall hereafter see cause to inclose, fence and improve the same in such Manner, the Proprietor or Proprietors of each Lot respectively during the Time of his or their Feeding, Planting, Mowing or otherwise improving his Part in such general Field, shall make and maintain his or their respective Part of the whole Fence, according to the Quantity of Acres of Land contained in his or their Allotment, until the major Part of the Propriety shall see Cause to alter the Form of their Improvement, at a Meeting of such Proprietors legally warned for that Purpose: And for the better enabling such Proprietors to call a Meeting for the Ends aforesaid, it shall be in the Power of any Justice of the Peace for the County where such Lands lie, upon Application to him made by any of the two Proprietors of such general Fields, to issue out a Warrant for such Meeting, according to the Form of an Act made and passed in the twelfth Year of Queen Anne, directing how Meetings of Proprietors of Lands lying in Common, may be called; the whole general Fence to be measured, and each Man's Part to be set out and apportioned by two or three discreet indifferent Persons appointed and sworn for this Purpose, by any Justice of the Peace for the said County, excepting the major Part of the Propriety agree and proportion the same among themselves.

Fences how to be maintained.

Justice of Peace upon Application, to call a Meeting of Proprietors.

Each Proprietors Proportion in general Fence to be entred by the Clerk of the Propriety or Town Clerk.

And when the Proportion of each Proprietor in such general Fence is adjusted and determined, the same shall be entred upon Record by the Clerk of the Propriety; and where there is no such Clerk, by the Clerk of the Town where the Land lies: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. IV.

An Act for the further Regulation of Ferries.

WHEREAS notwithstanding the Provision already made for the speedy Transportation of all Travellers and Passengers over the Ferry at Winnihimmit, yet thro' the Misconstruction of the said Law, Persons are unreasonably delayed and kept from passing said Ferry, until the Return of the Boat from the opposite Side, so that in effect the Benefit proposed in having three Boats is lost:

Preamble. 6 W. & M. ca. 6. and References.

Therefore for Remedy thereof, and that all Passengers may be transported speedily:

Culling of Fish.

Two Boats
to be always
passing upon
the Water.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That two of the three Boats appointed for the Service of the said Ferry, shall be always passing on the Water, from Side to Side, and as one of the Boats puts off from either Side, the Boat on the contrary Side shall be obliged to put off; unless the Weather be Stormy, or not safe for the Passengers; nor shall any Persons who want a Passage cross said Ferry when to the Number of five be delay'd, under the Penalty of *twenty Shillings*.

Ferry-men to
keep plank'd
Trucks on
each side the
Water.

And be it further enacted, That at *Charlestown, Winnisimmit, Salem and Newbury* Ferries, there be hence-forth provided and kept on each Side of the Water, by the Ferry-Men of the respective Ferries, a Pair of plank'd Trucks of a sufficient Breadth, for the safe and more convenient passing of Coaches, Calashes, Horses and Cattle in and out of the Ferry-Boats, on the Penalty of *ten Shillings* for every three Months Neglect, to be recovered before any of his Majesty's Justices of the Peace in the County, by any Person who shall inform, and sue for the same: Any Law, Usage or Custom to the contrary hereof notwithstanding.

Penalty.

C H A P. V.

An Act for the better Regulating the Culling of Fish.

Preamble.

WHEREAS thro' the Carelesness or Ignorance of Persons who undertake to Cull Fish, without being chosen and Sworn to the faithful Discharge of that Trust, many great Abuses have happened to the Buyers thereof:

For the Prevention whereof for the future:

Cullers of
Fish to be
chosen at
March Meeting
annually.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That there shall henceforth be Annually chosen in every Sea-Port Town or Place within this Province, where Fish is made and cured, at their Annual Meeting in *March*, a suitable and sufficient Number of Cullers of Fish, and that no Person or Persons shall presume to Cull any Fish, upon any Pretence whatsoever, without being chosen and Sworn according to this Law, upon Pain of forfeiting *ten Pounds* for every such Offence. And each Culler shall have due Regard in Culling of all Fish to the Contract or Agreement between the Buyer and Seller, with respect to the Season of Year wherein such Fish was made and cured.

Penalty for
Culling with-
out being
chosen and
Sworn.

Penalty for
Shipping off
Fish without
being Sur-
veyed or Cul-
led.

And be it further enacted by the Authority aforesaid, That no Person or Persons shall presume to Ship off any Merchantable Fish whatsoever, without being first Surveyed or Culled by a Sworn Culler, on the Penalty of forfeiting such Fish. And every Master of any Ship or other Vessel is hereby strictly prohibited from receiving or taking on Board his Ship or Vessel any Merchantable Fish, in order to be Transported beyond Sea, until such Fish be first Surveyed by a Sworn Culler, under the Penalty of *five Shillings* Fine for every Quintal of Fish so received or taken on Board. And all Cullers so chosen by any Town or Place, shall each and every of them be Sworn as follows, *viz.*

Penalty for
Masters ta-
king such
Fish on Board.

Cullers Oath.

I A. B do Swear, That I will faithfully and impartially to the best of my Judgment, perform the Duty and Office of a Culler of Fish for the Year ensuing, and that I will always have a Regard to the Particulars mentioned in this Act. So help me GOD.

Proviso.

Provided nevertheless, when it shall so happen, That the Sworn Cullers cannot be obtained, that then it shall and may be lawful for the Buyer and Seller to agree upon some meet Person to be a Culler, in such Case provided he be under the same Oath and Restrictions as the Cullers aforesaid.

And

Indians. Against carrying off Servants, &c. 201

And be it further enacted, That all Forfeitures and Penalties arising by Force and Virtue of this Act shall be disposed of, one half to the Poor of the the Place where the Offence shall be committed, and the other half to the Informer, or to him or them that shall sue for the same, in any of His Majesty's Courts of Record within this Province.

Fines how to be disposed of.

C H A P. VI.

An Act in Addition to the Act for preventing Abuses to the Indians, made in the twelfth Year of King William.

WHEREAS notwithstanding the Care taken and provided by said Act, a great Wrong and Injury happens to said Indians Natives of this Country, by Reason of their being drawn in by small Gifts, or small Debts, when they are in Drink and out of Capacity to Trade, to sign unreasonable Bills, or Bonds for Debts, which are soon sued, and great Charge brought upon them, when they have no Way to pay the same, but by Servitude :

12 W. ca. 10.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Bill, Bond or other Specialty in writing, given by any Indian, on any Contract whatsoever, shall be deemed good, or be recoverable against any Indian Native of this Province, unless such Bill, Bond or Specialty be entered into before any two of His Majesty's Justices of the Peace, in the County where such Indian lives, and both to be present together when the said Bill, Bond or Specialty is executed by the said Indian, and approbated by the said Justices, who are therefore to take Care of the Equity and Reasonableness of such Bill, Bond Bargain or Contract.

No Bill, &c. given by any Indian to be good, unless entered into before two Justices, both being present.

And be it further enacted, That henceforth no Indian shall contract, or put him or her Self or Child, Apprentice or Servant, for any Time or Term of Years, but by and with the Allowance and Approbation of two of His Majesty's Justices of the Peace (in the County where such Indian lives :) And the Indenture to be allowed of and approved by the said Justices at the same Time, and when together : Any Law, Usage or Custom to the contrary notwithstanding.

No Contract for Service of any Indian to be good, unless as above.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England, Begun and Held at Boston, upon Wednesday the twenty-eighth of May, 1718. And continued by several Prorogations unto Wednesday the twenty-ninth Day of October following, and then met.

C H A P. I.

An Act for the preventing of Persons under Age, Apprentices or Servants, being transported out of the Province, without the Consent of their Masters, Parents or Guardians.

WHEREAS it has been complained of that Persons under Age, Apprentices and Servants within this Province, do often-times get on Board the outward Bound Vessels, and are there entertained by the Masters or Mariners, and actually transported to some Parts beyond the Seas, not only to the great Loss and Injury of their respective Masters, &c. but also to the Damage of the Province :

Preamble.

Gun-Powder.

Masters of
Ships not to
carry off any
Servants or
Sons under
Age.

7 W. ca. 3.

Penalty 1.50.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Master of any outward bound Ship or Vessel that shall hereafter carry or transport out of this Province any Person under Age, or bought or hired Servant, or Apprentice, to any Parts beyond the Seas, without the Consent of such Master, Parent or Guardian signified in Writing, shall forfeit the Sum of *fifty Pounds*; the one Half to and for the Use of the Province, the other Half to and for the Use of him that shall inform or sue for the same; and be further liable to an Action in the Law, at the Suit of the Parent, Master or Owner of such transported Person, for any Damages sustained by him or them.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-seventh Day of *May*, 1719.

C H A P. II.

An Act in further Addition to an Act for erecting a Powder House in *Boston*.

5 A. ca. 3.
2 G. ca. 1.

WHEREAS Gun-Powder in great Quantities is imported and exported at the Port of *Boston*, and the Ships or Vessels in which such Powder commonly is, lie at the Wharffs near to the Ware-Houses, and Dwelling Houses of the Inhabitants of the Town of *Boston* aforesaid, being often grounded, whereby in Case of Fire, the Lives and Estates of His Majesty's good Subjects are in great Danger, as well as able-bodied and well disposed Persons discouraged and affrighted from giving their Assistance, and using any Endeavours for the Extinguishment thereof:

No Gun-
Powder to be
kept in Vessels
lying at a
Wharff.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act no Gun-Powder shall be kept on Board any Ship or other Vessel, lying to or grounded at any Wharff within the Port of *Boston*. And if any Gun-Powder shall be found on Board such Ship or Vessel lying a-ground as aforesaid, such Powder shall be liable to Confiscation, and under the same Penalty as if it were found lying in any House or Ware-House.

Gun-Powder
not to be
carried on
Trucks.

And be it further enacted by the Authority aforesaid, That no Powder be carried thro' any Town upon Trucks, under the Penalty of *ten Shillings* per Barrel, for every Barrel of Powder so conveyed, and so proportionably for smaller Cask.

To be kept
in Brass or Tin
Tunnels.

And be it further enacted by the Authority aforesaid, That such Quantity of Gun-Powder as by Law is permitted and allowed to be kept in Shops for Retail, shall hereafter be kept in Brasses or Tin Tunnels, and no otherwise, under the Penalty of forfeiting all such Gun-Powder; one Moiety thereof to be to the Use of the Poor of the Town where such Powder shall be found, and the other Moiety to them that shall inform and sue for the same: And that the Fire-wards of the Town of *Boston*, for the Time being, be and hereby are directed strictly to observe and put this Law in Execution: Any Law, Usage or Custom to the contrary notwithstanding.

Lotteries.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-seventh of *May*, 1719. And continued by several Prorogations unto Wednesday the fourth Day of *November* following, and then met.

C H A P. I.

An Act for the suppressing of Lotteries.

WHEREAS there have been lately set up within this Province certain mischievous and unlawful Games, called Lotteries, whereby the Children and Servants of several Gentlemen, Merchants and Traders, and other unwary People, have been drawn into a vain and foolish Expence of Money; which tends to the utter Ruin and Impoverishment of many Families, and is to the Reproach of this Government, and against the common Good, Trade, Welfare and Peace of the Province : Preamble.

For Remedy whereof :

We it enacted, adjudged and declared, and it is hereby enacted, adjudged and declared, by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That all such Lotteries, and all other Lotteries, are common and publick Nufances. Lotteries a publick Nufance.

And it is further enacted by the Authority aforesaid, That from and after the Publication of this Act, no Person or Persons whatsoever, shall publicly or privately exercise, keep open, show or expose to be play'd at, drawn at, or thrown at, or shall draw, play, or throw at, any such Lottery, or any other Lottery, either by Dice, Lotts, Cards, Balls, or any other Numbers or Figures, or any other Way whatsoever : And every Person or Persons that shall after the Publication of this Act, as aforesaid, exercise, expose, open or show to be played, thrown or drawn at any such Lottery, Play or Device, or other Lottery, shall forfeit for every such Offence the Sum of *two Hundred Pounds*, to be recovered by Information, Bill, Plaint or Action at Law, in any of His Majesty's Courts of Record within this Province, wherein no Essoin, Protection, or Wager of Law shall be allowed : one Half thereof to be to the King's Majesty, to be applied towards the Support of this Government, and the other Half to him or them that shall inform and sue for the same. 1.200 Forfeiture for Setting up Lotteries.
6 G. 2. ca. 4.
26 G. 2. ca. 1.

And be it further enacted, That every Person or Persons that after the Publication of this Act as aforesaid, shall play, throw, or draw at any such Lottery, Play or Device, or other Lotteries, shall forfeit for every such Offence, the Sum of *ten Pounds*, to be recovered by Information, Bill, Plaint or Action at Law, in any of His Majesty's Courts of Record within this Province, wherein no Essoign, Protection or Wager of Law shall be allowed ; one half Part thereof to be to the King's Majesty, to be applied towards the Support of this Government, and the other Half to him or them that shall inform and sue for the same. 1.10 Forfeiture for drawing at Lotteries.

And be it further enacted by the Authority aforesaid, That for the more effectual suppressing and preventing such unlawful Lotteries, the Justices of the Peace, Sheriffs, Under-Sheriffs, Sheriffs Deputies and Constables, within their respective Jurisdictions, be impowred and required to use their utmost Endeavours to prevent the drawing of any such unlawful Lottery heretofore, or hereafter to be set up, by all lawful Means whatsoever. Officers to prevent Lotteries.

Lands liable to pay Debts.

C H A P. II.

An Act in further Addition to and Supplement of an Act Intituled, *An Act for making Lands and Tenements liable to the Payment of Debts*, made and passed in the eighth Year of King William.

8 W. 3.

Real Estates
of Debtors
liable to Ex-
ecutions.

W E it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any Person or Persons shall recover Judgment in any of His Majesty's Courts within this Province for any Sum or Sums of Money, or any other Specie, or for Costs of Suit, and the Person or Persons against whom Judgment shall be recovered, is either unwilling or unable to satisfy such Judgment by Money or other Specie, and the Creditor or Creditors finding no other personal Estate to his or their Acceptance to extend Execution upon for Satisfaction thereof, and doth therefore think fit to levy upon the Real Estate of such Debtor or Debtors for the End aforesaid, rather than on the Person of the Debtor; that then and in every such Case, the Sheriff, Under-Sheriff or Deputy, shall cause three indifferent discreet Men, being Freeholders in the County, one to be chosen by the Creditor or Creditors, one by the Debtor or Debtors, if he or they see Cause, and the third by the Sheriff or other Officer that shall serve the same, to be sworn before one or more of His Majesty's Justices in said County, faithfully and impartially to apprise such Real Estate, as shall be shewn to them, who shall apprise the same to satisfy the Execution, with all Fees, and set out such Estate by Meets and Bounds; and the Sheriff or other Officer shall deliver Possession and Seizen thereof to the Creditor or Creditors, his or their Attorney; which being returned and recorded in the Clerk's Office of the Court out of which the same issued, shall make a good Title to such Creditor or Creditors, his or their Heirs and Assigns in Fee: *Saving*, Equity by Redemption as by Law is prescribed. And when it so happens that the Real Estate extended upon cannot be divided and set out by Meets and Bounds, as before prescribed, that then Execution shall be extended upon the Rents of such Real Estates and Seizen given thereof to the Creditor or Creditors, his or their Attorney, and cause the Person or Persons in the Possession and Improvement to attorn and become Tenant or Tenants to such Creditor or Creditors, and to pay their Rents to him or them accordingly; and upon refusal thereof to turn the Person or Persons out of the Possession thereof, and give Livery, Seizen and Possession of the same to the Creditor or Creditors to hold and enjoy all such Real Estate to him or them, their Heirs or Assigns, till the Judgment, Interest and Fees be fully satisfied and paid, reserving thereout the Widows Thirds or Dower, if any there be.

Saving Equity
of Redemp-
tion.

Execution to
be extended
on Rents.

Provido.

Provided always, That it shall and may be lawful for any Debtor or Debtors, his or their Heirs, Executors or Administrators at any Time or Times before the Judgment, with the Interest and Charges be fully satisfied, to tender and pay to the Creditor or Creditors, his or their Heirs or Assigns, the full remainder of the Debt, Interest and Charges, who is obliged to accept thereof, and surrender up all such Real Estate to the Debtor or Debtors, his Heirs, Executors or Administrators, and deliver up peaceable and quiet Possession thereof.

And be it further enacted by the Authority aforesaid, That an Act made and passed in the second Year of his present Majesty, Intituled, *An Act in further Addition to an Act Intituled, An Act for making Lands and Tenements liable to the Payment of Debts*, made and pass'd in the eighth Year of the Reign of King William: And all and singular the Clauses, Paragraphs, Articles, Directions, Matters and Things in the said Act contained, be, and hereby are repealed, made null and void.

Provido

Provided always, That all Real Estates taken in Execution and levied upon, and all other Acts and Things done pursuant to and by Virtue of the aforesaid Law, notwithstanding the Repealing hercof, shall be held good and effectual

Judges of Probate.

to all Intents and Purposes : And whoever is in the Possession of any Real Estate by Means thereof, it shall be a good Estate in Fee to him or them, their Heirs and Assigns : Any Law, Usage or Custom to the contrary thereof notwithstanding.

Provided also, That nothing in this Act contained, shall extend to the Lands Provifo. owned by the *Indian Natives* of this Province.

C H A P. III.

An Act for the Regulation of the Decrees and other Proceedings of the several Judges of Probate in the respective Counties of this Province, and of Appeals therefrom. 9 G. ca. 12

25 *E*t it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That after the Decease of any Person Intestate, Letters of Administration be taken out within thirty Days or sooner, and an Inventory taken of all the Estate of the Deceased within three Months, or sooner, by three suitable Persons appointed, and put upon Oath, for their due Performance of that Service by the Judge, or one Justice in the said County, in Case the Estate be not in the Town where the Judge himself dwells, or within ten Miles thereof ; a Certificate of such Appointment and Oath taken by the Justice, to be returned to the Probate Office, with the said Inventory.

Letters of Administration, &c. of Intestate Estates to be taken out.
4 W. & M. ca. 2.

And be it further enacted by the Authority aforesaid, That when the Executor or Administrator of any Estate shall obtain Licence from the Superior Court to make Sale of all or any Part of the Housing and Lands of the Deceased, for the Payment of Debts, before Sale be made of any such Housing and Lands, the Executor or Administrator, shall give thirty Days publick Notice by posting up Notifications of such Sale in the Town where the Deceased Person last dwelt, and in the two next adjoining Towns, as also in the Shire Town of the said County ; and whosoever will give most shall have the Preference in such Sale ; And in Case it be an insolvent Estate, the whole Produce of such Sale to be divided in due Proportion to and among the Creditors.

Administrators & Executors to give publick Notice of the Sale of Lands &c.
8 W. ca. 3.

And whereas some Doubt hath arisen touching such Estate Real and Personal as is not plainly devised, given or bequeathed in any last Will and Testament :

Be it resolved and enacted, That from and after the End of this present Session of the General Assembly, all such Estate whether Real or Personal that is not plainly given away or disposed of in and by the last Will and Testament of any Person thereafter to be proved, the same accordingly shall be distributed in the same Manner as if it were an Intestate Estate, and Executor or Executors shall administer on the same as such.

Estate not bequeathed to be distributed as Intestate Estates.

And be it further enacted by the Authority aforesaid, That when the Real Estate of an Intestate will conveniently accommodate more of the Children than the eldest Son, and being so represented, and made to appear to the Judge of Probate, he shall have Power to settle it on so many of the Children (Preference being always had to the Sons) as it will conveniently accommodate (without Prejudice to or spoiling of the whole) in the Manner as it was to have been settled upon the eldest Son before the making of this Act.

Division of Real Estate of Intestates.

And whereas Provision is already made for an Appeal to the Governour and Council from the Orders, Decrees, Sentences or Denials of the several Judges for the Probate of Wills and granting Letters of Administration, within the respective Counties of this Province, but no Time limited for the bringing such Appeals, which has been found inconvenient :

Limitation of Appeals from Judges of Probate. *4 W. & M. ca. 2.*

Be it therefore enacted by the Authority aforesaid, That no Appeal from any Sentence, Order, Decree or Denial of any of the Judges for the Probate of Wills, and granting Letters of Administration, allowing Accounts, and Distribution of Estates within this Province, shall be admitted, unless it be claimed within six Months after the making such Order, Sentence, Decree or Denial, and except Security be given by the Appellant within ten Days to prosecute the Appeal with Effect, and except Reasons of Appeal be filed in the Register's Office of the Court of Probate within ten Days after Security given, and fourteen Days at least before the Hearing before the Governour and Council. And in Case the Party or Parties so appealing fail in the Prosecution of their said Appeal to Effect, in three Months Time from the claiming the same; then the adverse Party to have the Benefit of the Sentence, Order or Decree so appealed from, by filing a Complaint to the Governour and Council, in like Manner as is provided by Law for not prosecuting an Appeal from the Judgment of an Inferiour Court.

Provido. *Provided always,* That any Person beyond the Sea, or out of *New-England*, who has no sufficient Attorney within this Province, at the Time of such Order, Sentence, Decree or Denial, shall have six Months after his or her Return, or Constitution of such Attorney; unless such Person was of Age at his Departure out of the Province, to claim and prosecute their Appeal, as aforesaid.

Guardians for Persons under Age and Non Compos. *6 W. & M. ca. 2. 7 A. ca. 2.*

And be it further enacted, That before any Decree, Order or Division be made concerning Intestate Estates, where any Infants or Persons under Age, or *Non Compos* are interested, Guardians shall be appointed for all such Persons according to Law, who shall be fully impowred to appeal from any such Order, Decree, or Sentence, if they see Cause, to be prosecuted, in Manner as aforesaid.

Judges of Probate to hold certain fixed Days.

And be it further enacted, That the Judges of the Probate of Wills, and for granting Letters of Administration of Intestate Estates in the respective Counties of the Province, shall have and hold certain fixed Days for the making and publishing their Orders and Decrees; and such Days to be determined and known by publick Notifications or Advertisements in the several Counties: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. IV.

An Act in Addition to an Act Intituled *An Act requiring the taking the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy*, made in the fourth Year of the Reign of the late King *William* and Queen *Mary*, of blessed Memory.

4 W. & M. ca. 16.

Preamble.

WHEREAS by an Act of Parliament made and passed in the first Year of His present Majesty's Reign, Intituled, An Act for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess *Sophia*, being Protestants, and for extinguishing the Hopes of the pretended Prince of *Wales*, and his open and secret Abettors, All Officers and Persons therein mentioned or described are enjoined and obliged to take the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy, in these Words, viz.

" I *A. B.* do sincerely Promise and Swear, That I will be faithful and bear true
" Allegiance to His Majesty King *GEORGE*. *So help me GOD.*

" I *A. B.* do Swear, That I do from my Heart, abhor detest and abjure as
" impious and heretical, that damnable Doctrine and Position, That Princes
" excommunicated or deprived by the Pope, or any Authority of the See of
" *Rome*, may be deposed or murdered by their Subjects or any other whatsoever.
" And I do Declare, That no foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiority, Preheminence or Authority, Ecclesiastical or Spiritual within this Realm.

So help me GOD.

And

Allegiance to be Sworn.

And also to take and subscribe the following Oath, viz.

I *A.B.* do truly and sincerely acknowledge, profess, testify and declare in my Conscience before GOD and the World, That Our Sovereign Lord King *GEORGE* is lawful and rightful King of this Realm, and all other his Majesty's Dominions and Countries thereunto belonging. And I do solemnly and sincerely Declare, That I do believe in my Conscience that the Person pretended to be Prince of *Wales*, during the Life of the late King *James*, and since his Decease, pretending to be, and taking upon himself the Stile and Title of King of *England*, by the Name of *James* the third, or of *Scotland*, by the Name of *James* the eighth, or the Stile and Title of King of *Great Britain*, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereto belonging. And I do renounce, refuse and abjure any Allegiance or Obedience to him. And I do Swear, That I will bear Faith and true Allegiance to His Majesty King *GEORGE*, and Him will defend to the utmost of my Power against all traitorous Conspiracies and Attempts whatsoever, which shall be made against his Person, Crown or Dignity. And I will do my utmost Endeavour to disclose and make known to His Majesty and His Successors, all Treasons and traitorous Conspiracies which I shall know to be against Him, or any of them. And I do faithfully Promise to the utmost of my Power to support, maintain and defend the Succession of the Crown against him the said *James*, and all other Persons whatsoever; which Succession by an Act, Intituled, *An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject, is and stands limited to the Princess Sophia, Electress and Ducthess Dowager of Hanover, and the Heirs of her Body, being Protestants*. And all these Things I do plainly and sincerely acknowledge and Swear according to these express Words by me spoken, and according to the plain and common Sense and Understanding of the same Words without any Equivocation, mental Evasion, or secret Reservation whatsoever. And I do make this Recognition, Acknowledgement, Abjuration, Renunciation and Promise, heartily, willingly and truly, upon the true Faith of a Christian.

So help me GOD.

Now to the Intent that all Persons whomsoever sustaining or holding any Office within His Majesty's Government of this Province, by Virtue of any Commission from His Excellency the Governour, or by Authority derived from him, take and subscribe the aforesaid Oaths; and also to discourage and prevent all Persons disaffected to His Majesty's rightful and happy Government, and the Protestant Succession as by Law established from coming into, or residing within this Province:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That as well the Members of His Majesty's Council, the Representatives in the General Assembly, as all and every Person and Persons that have, bear, or sustain any Office or Offices within this Province, by Virtue of any Commission from his Excellency the Governour, or by Authority derived from him, shall before they enter upon, and act in their respective Offices, before his Excellency the Governour, Lieutenant Governour, two or more of the Council, or such others as shall be thereto appointed by the Governour, take and subscribe the several Oaths herein before-mentioned: And in Case such Officer or Officers neglect or refuse to take the said Oaths, or subscribe thereto, they shall be *ipso facto* adjudged incapable and disabled in Law to have, occupy or enjoy the said Office or Offices, Employment or Employments, or any Part of them, or any Profit or Advantage thereby; and every such Office, Place or Employment shall be adjudged utterly void.

Officers obliged to take the Oaths to His Majesty.

And be it further enacted by the Authority aforesaid, That all and every other Person or Persons whatsoever now inhabiting or residing within this Province, or which shall at any Time hereafter reside or dwell within the same,

Others oblig'd thereto when required.

D d

shall

Allegiance to be Sworn.

shall when thereunto required by two of his Majesty's Justices of the Peace *Quorum Unus*, take and subscribe the Oaths aforesaid.

Justices im-
powered to
administer the
Oaths.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any two Justices of the Peace (*Quorum Unus*) in their respective Counties, to give and administer the Oaths aforesaid from Time to Time to any Person or Persons, and upon due Tender of any such Person or Persons to take the said Oaths, the said two Justices are hereby required and enjoined to administer the same, and a List of the Names of all Persons so Sworn, to be returned into the Secretary's Office.

40s. or Im-
prisonment
for the first
Refusal.

And be it further enacted, That it shall and may be lawful to and for two or more Justices of the Peace (*Quorum Unus*) to tender the Oaths herein before appointed to be taken to any Person or Persons whomsoever, whom they shall or may suspect to be disaffected to His Majesty, or his Government. And if any Person or Persons to whom the said Oaths shall be so tendered, shall neglect or refuse to take the same, the said Justices shall commit the said Person or Persons so refusing to the common Goal, there to remain without Bail or Mainprize, for the space of three Months; unless such Offender shall pay down to the said Justices so tendering the said Oaths, such Sum of Money, not exceeding *forty Shillings*, as the said Justices shall require such Offender to pay for his said Refusal; which Money shall be to his Majesty for the Support of the Government of this Province: And unless such Refuser become bound with two sufficient Sureties for the good Behaviour and also to appear at the next General Quarter Sessions of the Peace to be held for the same County where he doth inhabit or reside. At which Court the said Oaths shall be again tendered to him by the Justices of the said Court in open Sessions, and if he then refuses to take the said Oaths, the said Justices shall commit the said Person or Persons so refusing to the common Goal, there to remain for the space of six Months; unless every such Offender shall pay down to the said Justices such Sum of Money, not exceeding *ten Pounds*, nor under *five Pounds*, as the said Justices shall require, to be paid for his second Refusal; the said Money to be disposed in Manner as aforesaid; and unless every such Offender shall likewise become bound with two sufficient Sureties, with Condition to be of the good Behaviour, until he take the said Oaths: And all such Persons so refusing are hereby rendered incapable of giving any Vote for Representatives or Jurors, or in the Choice of any Town Officers.

10 l. or Im-
prisonment
&c. for Re-
fusal before
the Sessions.

And whereas the People called Quakers scruple the taking any Oath:

Be it enacted by the Authority aforesaid, That every such Person over and above the Declaration of Fidelity already enjoined them by the Law of this Province, shall for the future, if thereunto required, make and subscribe the Effect of the Abjuration Oath, in the following Words, *Viz.*

Quakers De-
claration in-
stead of the
Abjuration
Oath.

" **I** *A. B.* do truly and sincerely acknowledge, profess, testify and declare
" in the Presence of Almighty GOD, the Witness of the Truth of what
" I say, that King *GEORGE* is lawful and rightful King of the Realm of
" *Great Britain*, and of all other His Dominions and Countries thereunto be-
" longing. And I do solemnly and sincerely declare, That I do believe the
" Person pretended to be the Prince of *Wales*, during the Life of the late King
" *James*, and since his Decease, pretending to be and taking upon himself the
" Stile and Title of King of *England*, by the Name of *James* the third, or of
" *Scotland* by the Name of *James* the eighth, or the Stile and Title of King
" of *Great Britain*, hath not any Right or Title whatsoever to the Crown of
" the Realm of *Great Britain* nor any other the Dominions thereunto belong-
" ing. And I do renounce and refuse any Allegiance and Obedience to him.
" And I do solemnly promise, That I will be true and faithful and bear true
" Allegiance to King *GEORGE*, and to him will be faithful against all
" traitorous Conspiracies and Attempts whatsoever, which shall be made against
" his Person, Crown or Dignity. And I will do my best Endeavour to dis-
" close and make known to King *GEORGE* and his Successors all Trea-
" sons and traitorous Conspiracies which I shall know to be made against him
" or

Stocks. Jurors Fees, &c.

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“ or any of them. And I will be true and faithful to the Succession of the
 “ Crown against him the said *Jamies*, and all other Persons whatsoever, as the
 “ same is and stands settled by an Act Intituled, *An Act declaring the Rights*
 “ *and Liberties of the Subject, and settling the Succession of the Crown to the*
 “ *late Queen ANNE, and the Heirs of her Body being Protestants.* And as
 “ the same by one other Act Intituled, *An Act for the further Limitation of*
 “ *the Crown and better securing the Rights and Liberties of the Subject, is*
 “ *and stands settled and Intailed after the Decease of the said late Queen, and*
 “ *for Default of Issue of the said late Queen, to the late Princess Sophia, Electro-*
 “ *ress and Dutches Dowager of Hanover, and the Heirs of her Body being*
 “ *Protestants.* And all these Things I do plainly and sincerely acknowledge,
 “ promise and declare according to these express Words by me spoken, and
 “ according to the plain and common Sense and Understanding of the same
 “ Words, without any Equivocation, mental Evasion, or secret Reservation
 “ whatsoever. And I do make this Recognition, Acknowledgement, Renun-
 “ ciation and Promise heartily, willingly and truly.

C H A P. V.

An Act requiring the several Towns within this Province ^{4 W. & M. ca. 6.}
 to be provided with Stocks.

WHEREAS the Breach of sundry penal Laws of this Province is punish-
 able by putting in the Stocks, where the Offenders are unable to pay the ^{Preamble.}
 respective Fines by Law set; and many of the Towns in the Province are
 not provided with Stocks, for want of which oft-times Persons go unpunished:

For Prevention whereof:

Be it enacted by his Excellency the Governour, Council and Repre-
 sentatives in General Court assembled, and by the Authority of the same,
 That from henceforth every Town, within this Province, be supplied with
 Stocks. And that if any Town shall neglect the Observation of this Act, every
 such defective Town shall forfeit and pay the Sum of *five Pounds* for every
 Conviction of such Neglect, upon Complaint made unto his Majesty's Justices
 at their General Sessions of the Peace; the one Half of said Fines or Forfeit-
 ures to be to his Majesty, to be applied to and for the Support of this Govern-
 ment, and the other Half to him or them that shall inform and prosecute the
 same. ^{All Towns to be provided with Stocks. 15. Penalty.}

C H A P. VI.

An Act for enlarging the Fees of Grand Jurors, and for fixing
 an Allowance to the Superiour Court of Judicature for ^{7 W. ca. 4.}
 hearing Petitions, and granting Power for the Sale of Land.

WHEREAS the stated Allowance by Law for Grand-Jurors of two ^{Preamble:}
 Shillings per Diem, during their Attendance at Court, is thought too
 little, considering the great Price of Provisions, and other Necessaries:

Be it enacted by his Excellency the Governour, Council and Represen-
 tatives in General Court assembled, and by the Authority of the same,
 That the Allowance of a Grand-Juror during his Attendance on the Court, and
 also for his necessary travel to and from the same for the future, be *three Shil-*
lings per Diem. ^{3 s. per Diem for Grand Jurors.}

And whereas a great Part of the Business of the Superiour Court is often
 taken up in hearing and granting Petitions for the Sale of Land, and no Fee
 yet stated by Law for the same:

Be it therefore further enacted by the Authority aforesaid, That the Fee ^{Judges Al-}
 or Allowance to the Judges of the said Court on such Petitions be *two Shillings*
 a-piece to each Judge, present at the Hearing of such Petition, and no more. ^{lowance for Petitions.}

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the thirteenth Day of *July*, 1720.

C H A P. VII.

An Act to Regulate the Price and Assize of Bread.

Preamble.

WHEREAS the Act made and passed in the eighth Year of King William the Third, Intituled, An Act for the due Assize of Bread, is found not effectual for the good Ends and Purposes therein designed, and little or no Observance has been made thereof; but covetous and evil disposed Persons have for their own Gain, deceived and oppressed his Majesty's Subjects, more especially the poorer Sort :

For Remedy whereof :

Act for the due Assize of Bread.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the said Act Intituled, *An Act for the due Assize of Bread*, shall be and is hereby repealed, annulled and made void : and that after the tenth Day of *September* next, the Select-Men of each Town within this Province where Bread is baked for Sale, shall once every Month, and oftner if they see Cause, set, ascertain and appoint within their severall Towns the Assize and Weight of all Sorts of Bread to be sold, or exposed to Sale by any Baker, or other Person whatsoever; having Respect to the Price the Grain, Meal or Flower whereof such Bread shall be made, shall bear in or about the Town or Place where such Assize shall be set, and making reasonable Allowance to the Bakers for their Charges, Pains and Livelihood ; and shall make known their said Regulation of the Assize of Bread in some open and publick Place or Places in their respective Towns.

Assize of Bread to be ascertained.

And that the said Assize may be the more easily ascertained :

Sorts of Bread to be allowed.

Be it enacted by the Authority aforesaid, That from and after the said tenth Day of *September*, no Person or Persons whatsoever shall make for Sale, or sell, or expose to Sale any Sort or Sorts of Bread, but such as are herein after-mentioned : That is to say, White, Wheaten and Household, and such other Sort or Sorts as shall be publickly licenced and allowed by the said Select-Men, in the severall and respective Towns; all which severall Sorts of Bread shall be made in their severall and respective Degrees, according to the Goodness of the Grain whereof the same are or ought to be made ; and the Assize and Weight of the said White, Wheaten and Household Bread shall be set and ascertained, according to the Table hereafter-mentioned, *Viz.*

A Table of the Assize of Bread in Pounds, Ounces and Drams. In the first and last Columns is the Price of the Bushel of Wheat, from 4 s. to 15 s. The Allowance to the Baker for Baking to be made by the Select-men being included : So that for Example, If the Price of Wheat be 5 s. the Bushel, and the Select-men allow 1 s. 6 d. per Bushel, for Baking, the Price in the Table will be 6 s. 6 d. and even with or against those Numbers in the first and last Columns will be found the Weight of the severall Loaves *Averdupois*.

Note, That the White Loaves are one Half, and the Wheaten three Quarters of the Weight of Household Loaves.

Assize of Bread.

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The Price of the Bulnel of Wheat, and Baking.	Weight of the Penny Loaf.					Weight of the two Penny Loaf.					Weight of the six Penny Loaf.					Weight of the twelve Penny Loaf.					The Price of the bulnel of Wheat and Baking.						
	White		Wheat- ten.		Hou- hold	White		Wheat- ten		Hou- hold	Wheat-ten		Household		Wheat-ten		Household										
	Ounces	Drams	Ounces	Drams	Drams	Ounces	Drams	Ounces	Drams	Drams	Pounds	Ounces	Drams	Pounds	Ounces	Drams	Pounds	Ounces	Drams								
s. d.																				s. d.							
4 0 11	9 17	6 23	3 23	3 34	12 46	5 6	8 4	8 11	13	9 17	6 1	4 0	4 6	10	5 15	7 20	10 20	10 30	14 41	3 5	12 11	7 11	9 11	9 6	15 7	3 4	0 6
4 6 10	5 15	7 20	10 20	10 30	14 41	3 5	12 11	7 11	9 11	9 6	15 7	3 4	5 0 9	4 13	14 18	9 18	9 27	13 37	1 5	3 7	6 15	4 10	6 13	14 7	5 0 9	4 5 6	6 0 0
5 0 9	4 13	14 18	9 18	9 27	13 37	1 5	3 7	6 15	4 10	6 13	14 7	5 0 9	5 6 8	7 12	10 16	14 16	14 25	4 33	11 4	11 13	6 5	2 9	7 11	12 10	4 5 6	6 0 0	6 6 0
5 6 8	7 12	10 16	14 16	14 25	4 33	11 4	11 13	6 5	2 9	7 11	12 10	4 5 6	6 0 7	10 11	9 15	7 15	7 23	3 30	14 4	5 8	5 12	11 8	11 11	9 6	6 0 7	6 6 0	6 6 6
6 0 7	10 11	9 15	7 15	7 23	3 30	14 4	5 8	5 12	11 8	11 11	9 6	6 0 7	6 6 7	2 10	11 14	4 14	4 21	6 28	8 4	3 5	5 9	8 8	5 10	11 2	6 6 7	6 6 6	6 6 6
6 6 7	2 10	11 14	4 14	4 21	6 28	8 4	3 5	5 9	8 8	5 10	11 2	6 6 7	7 0 6	10 9	15 13	4 13	4 19	14 26	8 3	11 9	4 15	7 7	7 3	9 14	14 7	0 6	7 0 0
7 0 6	10 9	15 13	4 13	4 19	14 26	8 3	11 9	4 15	7 7	7 3	9 14	14 7	7 6 6	3 9	4 12	6 12	6 18	9 24	11 3	7 10	4 10	2 6	15 4	9 4	5 7	6 0	7 6 0
7 6 6	3 9	4 12	6 12	6 18	9 24	11 3	7 10	4 10	2 6	15 4	9 4	5 7 6	8 0 5	12 8	11 11	9 11	9 17	6 23	3 3	4 2	4 5	8 6	8 4	11 1	1 8	0 0	8 0 0
8 0 5	12 8	11 11	9 11	9 17	6 23	3 3	4 2	4 5	8 6	8 4	11 1	8 6	8 6 5	7 8	3 10	14 10	14 16	6 21	13 3	1 1	4 1	7 6	5 2	8 2	4 8	0 6	8 6 0
8 6 5	7 8	3 10	14 10	14 16	6 21	13 3	1 1	4 1	7 6	5 2	8 2	4 8 6	9 0 5	7 12	10 5	5 0	5 15	7 20	10 19	8 2	14 5	3 13	1 5	12 11	7 11	9 9	0 0
9 0 5	7 12	10 5	5 15	7 20	10 19	8 2	11 14	3 10	9 5	7 13	7 5	1 9 6	9 6 4	14 7	5 9	12 9	12 14	10 19	8 2	11 14	3 10	9 5	7 13	7 15	1 9	9 6	0 0
9 6 4	14 7	5 9	12 9	12 14	10 19	8 2	11 14	3 10	9 5	7 13	7 5	1 9 6	10 0 4	10 6	15 9	4 9	4 13	14 18	9 2	9 11	3 7	10 5	3 7	6 15	4 10	0 0	10 0 0
10 0 4	10 6	15 9	4 9	4 13	14 18	9 2	9 11	3 7	10 5	3 7	6 15	4 10 6	10 6 4	7 6	10 8	13 8	13 13	4 17	10 2	7 12	3 4	15 4	15 7	6 9	15 10	6 0	10 6 0
10 6 4	7 6	10 8	13 8	13 13	4 17	10 2	7 12	3 4	15 4	15 7	6 9	15 10 6	11 0 4	3 6	5 8	7 8	7 12	10 16	14 2	5 15	3 2	9 4	11 13	6 5	2 11	0 0	11 0 0
11 0 4	3 6	5 8	7 8	7 12	10 16	14 2	5 15	3 2	9 4	11 13	6 5	2 11 0	11 6 4	6 6	1 8	1 8	1 12	1 16	2 2	4 4	3 6	4 8	9 6	11 11	11 6	0 0	11 6 0
11 6 4	6 6	1 8	1 8	1 12	1 16	2 2	4 4	3 6	4 8	9 6	11 11 6	12 0 3	12 0 3	14 5	13 7	12 7	12 11	9 15	7 2	2 12	2 14	5 4	5 8	5 11	12 12	0 0	12 0 0
12 0 3	14 5	13 7	12 7	12 11	9 15	7 2	2 12	2 14	5 4	5 8	5 11 12	12 0 3	12 6 3	11 5	9 7	7 7	7 11	2 14	13 2	1 6	2 12	8 4	2 12	5 9	12 12	0 0	12 6 0
12 6 3	11 5	9 7	7 7	7 11	2 14	13 2	1 6	2 12	8 4	2 12	5 9 12	12 6 3	13 0 3	9 5	6 7	2 7	2 10	11 14	4 2	1 2	10 12	4 3	5 5	9 13	0 0	13 0 0	0 0
13 0 3	9 5	6 7	2 7	2 10	11 14	4 2	1 2	10 12	4 3	5 5 9	13 0 3	13 6 3	13 6 3	7 5	2 6	14 6	14 10	9 13	12 1	14 14	2 9	3 3	13 13	5 2	6 13	6 0	13 6 0
13 6 3	7 5	2 6	14 6	14 10	9 13	4 1	13 13	2 7	12 3	11 9 4	15 10 6	14 0 3	14 0 3	4 15	6 10	10 6	10 9	15 13	4 1	13 13	2 7	12 3	3 11	9 4	15 7	14 0 0	14 0 0
14 0 3	4 4	15 6	10 6	10 9	15 13	4 1	13 13	2 7	12 3	11 9 4	15 10 6	14 0 3	14 6 3	4 13	6 6	6 6	6 9	9 12	13 1	12 12	2 6	6 3	9 8	4 12	11 14	6 0	14 6 0
14 6 3	4 4	13 6	6 6	6 9	9 12	13 1	12 12	2 6	6 3	9 8 4	12 11 14	14 6 3	15 0 3	4 10	6 3	3 6	3 9	4 12	6 1	11 13	2 5	3 7	10 4	10 2	15 0	0 0	15 0 0

And to the Intent that the good Design of this Act may be effectually complied with :

Be it further enacted, That every common Baker, and any Person that shall bake or make for Sale, or expose to Sale any Sort of Loaf Bread or Bisket, that shall be sold by Tale, shall from and after the said tenth Day of September fairly mark, or imprint, or cause to be marked or imprinted such distinct Mark, as shall be appointed or allowed by the Select-Men, so that their Bread may be known and distinguished.

And be it further enacted by the Authority aforesaid, That if any Baker or Bakers, or other Person or Persons baking or making Bread for Sale, or exposing Bread to Sale, shall not observe the Assize to be ascertained by Virtue of this Act, or shall bake or make for Sale, or sell or expose to Sale any Bread wanting the due Weight, or that shall not be marked according to the Direction of this Act, or shall break such Regulations and Orders, as shall from Time to Time be made by Virtue of this Act; he or they so doing, and being thereof convicted by Confession of the Party, or by the Oath of two or more credible Witnesses before one or more of his Majesty's Justices of the Peace for the County where the said Offence is committed, or the Party offending apprehended, shall for every such Offence forfeit the Sum of *twenty Shillings*, to be levied by Way of Distress upon the Goods and Chattels of every such Offender, by Warrant from the said Justice or Justices; the said Forfeitures to be the one Half towards the Support of the Poor of the Town where such Offence shall be committed, and the other Half to the Informer. And if any Baker or Seller of Bread shall put into any Bread by him sold or exposed to Sale, any Mixture of any other Grain than what shall be appointed by the Assize settled in the Place where such Bread shall

shall be so sold or exposed to Sale ; every Person so offending shall for every such Offence forfeit the Sum of *twenty Shillings*, to be recovered in the Manner and Form herein before mentioned, and to be for the Uses afore-mentioned.

Proviso.

Provided always, That no Person shall be convicted in Manner aforesaid for any of the afore-mentioned Offences, unless the Prosecution in order to such Conviction be commenced within five Days next after the Offence committed.

Proviso for Appeal.

Provided also, and be it further enacted, That if any Person so convicted shall think him or her self aggrieved, he or they shall and may make his or her Appeal to the next Quarter Sessions of the Peace for the County where such Conviction shall be made ; at which Sessions the same shall be heard and finally determined. And if the said Person so appealing shall not make good such his or her Appeal, or prosecute it with Effect, the said Court of Sessions shall award such Costs they shall think reasonable to the Prosecutor or Informer, and commit the Offender to the common Goal, until he or she shall make Payment of the said Costs, and also of the Penalty adjudged on the Conviction : But in Case the Appellant shall make good his or her Appeal, and be discharged of his or her said Conviction, the like reasonable Costs shall be awarded for the Appellant against such Informer or Prosecutor. And if any Justice of the Peace shall on any Information made to him of any Offences committed against this Act wilfully and wittingly omit the Performance of his Duty thereupon in the Execution of this Act, he shall forfeit the Sum of *forty Shillings*, to be recovered by Action, Bill, Plaint or Information, in any of his Majesty's Courts of Record in the County where he doth reside, wherein no Essoin, Protection or Wager of Law shall be allowed.

Penalty for Justices neglect of Duty.

And that the good Design of this Act may be the more effectually accomplished :

Officers to try & weigh Bread.

Be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any of his Majesty's Justices of the Peace, or any one of them within their respective Counties, and any of the Select-men, or any one of them in their respective Towns, or any two of the Clerks of the Market, at all Times hereafter in the Day Time, to enter into any House, Stall, Bake-House, Out-House, or Ware House, belonging to any Baker or Seller of Bread, there to search for, view, weigh or try all or any the Bread of such Person, or which shall there be found : And if any Bread shall there be found wanting, either in the goodness of the Stuff whereof the same shall be made, or in the due working or baking thereof, or shall be deficient in the due Weight, or shall not be truly marked according to the Directions of this Act, or shall be of any other Sort than shall be allowed by Virtue of this Act. that then and in every such Case, it shall and may be lawful to and for such Justice or Justices of the Peace, or Select-men or Select-man, or any two Clerks of the Market, to seize and take the said Bread so found, and cause the same to be given and distributed to the Poor of the Town where such Seizure shall be made : And if any Baker or Seller of Bread, or other Person or Persons shall not permit or suffer such Search or Seizure to be made by Vertue of this Act, or shall oppose, hinder or resist the same, he or they so doing, shall for every such Offence, forfeit the Sum of *Three Pounds*, to be disposed of as the other Fines, and to be had and recovered in the summary Manner and Form herein before first mentioned.

Forfeiture of Bread to the Poor.

Provided always, That a proper Allowance be made for the drying of Bisket, yet never to exceed two Ounces for drying at the lowest Price of Wheat, and so proportionably.

Collectors.

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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the thirteenth Day of *July*, 1720. And continued by several Prorogations unto Wednesday the second Day of *November* following, and then met.

C H A P. I.

An Act to enable the several Towns, Precincts, Districts and Parishes, legally set off, to choose Collectors for the gathering any Town, County, Precinct, District or Parish Rates or Assessments.

WHEREAS the Laws of this Province have made sufficient Provision for the gathering in, and collecting the publick Rates or Taxes by Collectors, if any are chosen, and accept thereof; and on their Refusal by the Constables of each Town, Precinct or District, and the Form of an Oath to be administred to such Constables or Collectors established, but no Provision is made for the obliging any Person chosen Collector for any Town, County, Precinct, District or Parish Rates or Assessments, to serve in said Office; nor Form of the Oath such Persons ought to be under, for the due Observance of their Office:

Wherefore,

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall be in the Power of every Town, Precinct, District or Parish within this Province legally set off, some Time in the Month of *March* annually, at the same Time they choose other Town, Precinct, District or Parish Officers, to choose one or more Persons, to serve as Collector or Collectors of all such Rates or Assessments, as shall be granted or agreed by such Town, or by the General Sessions of the Peace, in which County the same lieth, or by any Precinct, District or Parish regularly set off as aforesaid, who shall be under the Oath herein after provided, which Oath shall be administred by a Justice of the Peace, if any such live within the same Town, or by the Select-men of such Town, as the Law already provides: And any Person that shall be chosen into the Office of a Collector as aforesaid, and that shall refuse to accept thereof, or deny and neglect to take the Oath herein expressed, shall forfeit and pay unto the Town, Precinct, District or Parish Treasurer, the Sum of *three Pounds*, to the Use of the Poor of such Town, Precinct, District or Parish: And if such Person neglect or refuse to pay his Fine, he shall be proceeded against, as the Law directs for the prosecuting of Persons refusing to serve in the Office of a Constable; provided no Person in Commission for any Office Civil or Military, Church-Officers, or Members of the House of Representatives for the Time being, nor other Person that has served as Constable or Collector within the space of seven Years before, shall be obliged to serve in the Office of Collector.

And be it further enacted by the Authority aforesaid, That every Person chosen Collector as aforesaid, and accepting thereof, shall settle and issue his Accompts, of all Rates and Assessments to him committed, with the Select-men of such Town, or Person mentioned in the Warrant, to whom the Rate is payable, within twenty Days after the Time is expired in the said Warrant, to be annexed to the Rate or Assessment to him committed for Payment thereof, under the Pain and Penalty of any Collector so neglecting or refusing, the Sum of *twenty Shillings*, for every Month he shall neglect so to do, to be recovered as in and by this Act is provided for refusal to accept of such Office, and to be applied for the Use and Intent aforesaid: Any Law, Usage or Custom to the contrary notwithstanding.

Collectors of Rates to be chosen.

4 G. 2. ca. 1.

To be under Oath.

Penalty on refusal.

Persons exempt.

Collectors to make up Accounts of Assessments.

Penalty for neglect.

And

And be it further enacted by the Authority aforesaid, That the Form of the Oath to be administred to any Person chosen Collector shall be as follows :

Form of the
Oath.

W Hereas you A. B. are chosen Collector within the Town of C. or Precinct, District or Parish within the Town of C. for one Year now following, and until other be chosen and sworn in your Place ; you do Swear, That you will faithfully, and with what Speed you can, collect and levy all such Rates or Assessments and Sums of Money, committed to you to collect, and for which you shall have sufficient Warrant, rendring Account thereof, and paying in the same according to the Direction in your Warrant. So help you GOD.

C H A P. II.

An Act for Explanation of, and Supplement to an Act referring to the Poor, &c.

Preamble.

W HEREAS the Law for binding out poor Children Apprentices is mis- construed by some, to extend only to such Children whose Parents re- ceive Alms :

For Explanation whereof :

Children of
poor People
to be put to
Work, or
bound out.
4 W & M.
ca. 13.

Be it declared and enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Select-Men or Overseers of the Poor, in any Town or District within this Province, or the greater Part of them, shall take Order, and are hereby impowred from Time to Time, by and with the Assent of two Justices of the Peace, to set to Work, or bind out Apprentice as they shall think convenient, all such Children whose Parents shall by the Select-men, or the Overseers of the Poor, or the greater Part of them, be thought unable to maintain them (whether they receive Alms, or are chargeable to the Place or not) so as that they be not cessed to publick Taxes or Assessments, for the Province or Town Charges ; Male Children till they come to the Age of twenty-one Years, and Females till they come to the Age of eighteen Years, or Time of Marriage : which shall be as good and effectual in Law to all Intents and Purposes, as if any such Child were of full Age, and by Indenture or Covenant had bound him or her self, or that their Parents were consenting thereto, Provision therein to be made for the instructing of Children so bound out, to wit, Males to read and write ; Females to read, as they respectively may be capable : And the Select-Men or Overseers of the Poor, shall inquire into the Usage of Children, bound out by themselves or their Predecessors, and endeavour to defend them from any Wrongs or Injuries.

And for the better preventing of Idleness and loose and disorderly living :

Idle Persons
to be set to
Work.
11 W. ca. 6.

Be it further declared and enacted, by the Authority aforesaid, That the Select-Men or Overseers of the Poor, or the greater Part of them, be, and are further impowred by and with the Assent of two Justices of the Peace, to set to work all such Persons, married or unmarried, able of Body, having no Means to maintain them, that live idly, and use or exercise no ordinary and daily lawful Trade or Business to get their living by. And no single Person of either Sex, under the Age of twenty one Years, shall be suffered to live at their own Hand, but under some orderly Family-Government ; nor shall any Woman of ill Fame married or unmarried, be suffered to receive or entertain Lodgers in her House. And the Select-Men or Overseers of the Poor, Constables and Tything-Men are hereby ordered to see the due observance of this Act ; and to complain and inform against any Transgressions thereof, to one or more Justices of the Peace, or the Court of General Sessions of the Peace, who are hereby respectively required and impowred, upon due Conviction of the Offender or Offenders, for living idly or disorderly, contrary to the true Intent of this Act, to commit or send such Offenders to the House of Correction or Work-
House,

Idle Persons
to be sent to
the House of
Correction.

House, there to remain and be kept to Labour, until they be discharged by order of such Justice or Justices, of the Court of General Sessions of the Peace; unless such Person or Persons so complained of, shall give reasonable Caution or Assurance to the Satisfaction of the Justice or Court that they will reform.

Provided; This Act shall not be construed to extend to hinder any single Wo- Proviso.
man of good Repute, from the exercise of any lawful Trade or Employment for a Livelihood: Any Law, Usage or Custom to the contrary notwithstanding.

And any two Justices committing any Person or Persons as aforesaid, are hereby impowred, as they shall find Cause, to discharge them again.

C H A P. III.

An Act for altering the Form of the Certificate of Payment of Wolves, made out of any Town Stock.

WHEREAS by a Law made in the seventh Year of the Reign of King William the third, Provision is made for the reimbursing such Sums 5 W. & M. ca. 2.
of Money as were paid out of any Town Stock for Wolves killed in and near 7 W. ca. 5.
such Town by discounting the same with the Constable of such Town, out of the publick Assessment committed to him to collect: But in as much as it is found by Experience, that the Sums paid out of the Stocks of some Towns, do exceed the Sums set upon such Towns, as their Proportion of the publick Tax, and no Method prescribed by Law for drawing the Surplusage out of the Treasury:

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Province Treasurer be and hereby is directed and ordered for the future, to pay unto the Treasurer of each Town respectively, such Sum or Sums as shall by such Town be advanced (agreeably to Law) for Wolves killed in or near such Towns; and that all Certificates of such Payments to be returned to the Treasurer, shall be in the Form following: That is to say, Province Treasurer to pay the whole Sum for killing Wolves.

THis may Certify, That there hath been paid unto sundry Persons out of the Town Stock of for grown Wolves, and Wolves Form of Certificate.
Whelps, killed in and near unto our Town, and within this Province, since the Day of last past, and the Heads thereof brought unto our Constable or Constables, and the Ears cut off in the Presence of some of our selves, as the Law directs, and so certified unto us, in the whole the Sum of Pounds, which Sum we desire you to allow to our Town, by paying the same unto our Town Treasurer. Dated in aforesaid, the Day of Anno Domini, 17

Select-Men.

Town-Treasurer.

C H A P. IV.

An Act in Explanation of, and in Addition to an Act made in the thirteenth Year of King William, Intituled, An Act for Review in Civil Causes.

WHEREAS in and by the said Act, it is provided, " That it shall be " in the Liberty of the Party aggrieved at the Judgment given in any 13 W. ca. 15. & References.
" Inferiour Court of Common Pleas, or in the Superiour Court of Judicature respectively, by new Process to Review the said Cause once in each " Court :

E e

And

And whereas, it hath sometimes happened, that contrary to the Meaning of the said Act, the Party in whose Favour the Judgment of the Superiour Court hath been given, hath very soon after such Judgment, taken out his Writ of Review, pretending himself aggrieved by such Judgment, and entred his Action thereupon, when it hath been with Intent to prevent the other Person who was really aggrieved, bringing his Writ of Review; and upon the Trial of such Review, a Doubt has arisen as well from the Nature of the Review, as from the Form of the Writ, whether the Defendant could have any Relief, or indeed any other Verdict or Judgment than Costs awarded him; and thereupon as well the Design of the said Law defeated, as manifest Injustice sometimes may be done:

For Remedy whereof:

Writs of Review of both Parties to be committed to the Jury.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as it shall happen that both Parties bring forward and enter their Writs of Review in the Superiour Court, that then and in such Case, both Writs or Actions of Review shall be committed together by the Court to the same Jury, in order to reverse, confirm or alter the Judgment of the Superiour Court on the Appeal according to Law and Justice, and as the Matter shall appear upon the Trial; Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. V.

An Act in Addition to an Act Intituled, *An Act for the more safe keeping the Registry of Deeds and Conveyances of Lands*, made in the first Year of his present Majesty's Reign.

1 G. ca. 4.
12 G. ca. 3.

WHEREAS in and by an Act made in the first Year of his present Majesty's Reign, intituled, *An Act for the more safe keeping the Registry of Deeds and Conveyances of Lands*, It was (among other Things) Enacted, "That there should be chosen in each County within this Province, some suitable Person to be Register, in each County within the same, who should be chosen by the Votes of the Freeholders of each respective Town, at their Meeting in *March* then next following; and that each Person so chosen, should continue in the said Office five Years, as by the said Act more fully appears: But no Provision is made in the said Act for the Choice of Registers after the said five Years, which are now near expired:

Choice of Registers of Deeds to be in *March* for ever.

Register to reside & keep his Office in the Shire Town.

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Freeholders in each respective Town within this Province, at their Meeting in *March* next, and every five Years from thenceforth successively following for ever, at their several Town Meetings in *March*, shall be and hereby are impowred and required to proceed to chuse a Register for each County respectively within the said Province, qualified as in the said Act is expressed; and that the Person so chosen, as aforesaid, shall reside and keep his Office daily open in the respective Shire Town of each County, and therein keep the Books, Records, Files and Papers to the said Office belonging; and that all the other Clauses, Articles and Paragraphs in the said Act, are hereby made and declared to be perpetual, and shall abide and remain effectual and in full Force and Virtue to all Intents, Constructions and Purposes in the Law, from henceforth and forever hereafter: Any Law, Usage or Custom to the contrary notwithstanding.

Replevin.

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C H A P. VI.

An Act Repealing and making Void the Form of the Writ of Replevin directed to in an Act Intituled, *An Act prescribing the Form of Writs for Possession, Scire Facias, and Replevin*; made in the thirteenth Year of the Reign of King *William* the third; and establishing an other Form instead thereof.

FORASMUCH as some further Provision in the Law is necessary relating to Actions of Replevin, and for rendring the Proceedings therein more compendious and certain:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the said Form of the Writ of Replevin. prescribed in and by the above said Act, made in the thirteenth Year of the Reign of the said King *WILLIAM*, and every Article and Clause therein contained, shall be and hereby is repealed, determined and made void and of none Effect forever.

Former Writ
of Replevin
made void.

And be it further declared and enacted by the Authority aforesaid, That from henceforth the Writ of Replevin to be issued out of the Inferiour Court, shall be from Time to Time granted and issued out in the Form following; (*That is to say* :)

S—**T**O the Sheriff or Marshal of the said County of *S.* his Under-Sheriff or Deputy, or Constables of the Town of *B.* within the said County, or to any or either of them, *Greeting.* In his Majesty's Name you are required to Replevie belonging to *T. P.* of *B.* addition now distrained or impounded by *J. G.* of *B.* addition and deliver the said unto the said *T. P.* and Summons the said *J. G.* To appear before Our Justices of Our Inferiour Court of Common Pleas next to be holden at *B.* within and for Our County of *S.* aforesaid on the Day of then and there in Our said Court to answer to the said *T. P.* in a Plea of Replevin, for that the said *J. G.* he on the Day of at a Place called *A.* in *B.* aforesaid took of the Plaintiffs, and drove them away and impounded them in and in the said Pound them unjustly detained, against Pledges and Sureties till this Day. Which is to the Damage of the said *T. P.* (as he saith) the Sum of Pounds, as shall then and there appear with other due Damages. *Provided*, he the said *T. P.* give Bond to the Value of Pounds, with sufficient Surety or Sureties to prosecute his Replevin at the said next Inferiour Court of Common Pleas; and so from Court to Court until the Cause be ended. And to pay such Costs and Damages as the said *J. G.* shall recover against him. Hereof fail not, and make true Return of this Writ with your Doings therein, unto the said Court. Dated in *B.* the Day of in the Year of His Majesty's Reign. *Annaque Domini A. D.* Clerk.

New Form of
Writ of Re-
plevin.

And the like Form of Replevin to be observed for Matters cognizable before a Justice of Peace, *Mutatis Mutandis*; but neither of them to be construed to extend to any Distress or Distresses made by the proper Officer, for any Tax, Fine or Forfeiture.

And be it further enacted by the Authority aforesaid, That in Case the Defendant in any Action of Replevin, cannot be found, an attested Copy of the said Writ of Replevin, being left at the House or Place of usual Abode of the Defendant, shall be sufficient to oblige him to answer to the Suit.

Copy of Writ
of Replevin
to oblige the
Defendant to
answer.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirteenth Day of *July*, 1720. And continued by several Prorogations unto Wednesday the fifteenth Day of *March* following, and then met.

C H A P. VII.

An Act in Addition to an Act made in the twelfth Year of King *William*, Intituled, *An Act directing how Taxes to be granted by the General Assembly shall be assessed and collected*, and for the ratifying and confirming the Proceedings of the Assessors of Precincts, Districts and Parishes, and the collecting of such Rates and Taxes as may have been made by such Assessors, altho' not upon Oath, and to empower Committees of Precincts, &c. to call Meetings.

Preamble.

The Act here
refer'd to is
expired.

WHEREAS it is not expressly declared in and by the said Act of the twelfth of King WILLIAM, that the Assessors of Precincts, Districts and Parishes shall be upon Oath, and some of the Assessors legally chosen by and for some of the Districts, Parishes and Precincts within this Province, have not been under Oath, and thereupon some Difficulty has arisen as to the collecting and paying such Parish and Precinct Taxes or Rates :

Assessors of
Parishes, &c.
to be under
Oath.

Be it therefore declared and enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, all Assessors as well those of and for Parishes, Precincts and Districts shall be under the Obligation of an Oath to make their Assessment just and equal, according to the Rules in the Law provided.

Parish Com-
mittees to
have Power
to call Meet-
ings.

And that the Committee chosen in Precincts, Districts and Parishes, to manage their Prudentials, shall have the like Power and Authority, to call and appoint Meetings of their respective Precincts, Districts and Parishes, as the Selectmen of Towns have to call and appoint Town Meetings.

Assessments
made not un-
der Oath, to
be held good.

And be it further enacted, That all Assessments hitherto made by any Assessors legally chosen for any Precinct, Parish or District within this Province, although not upon Oath, shall be and are legally held, deemed and made good and valid to all Intents and Purposes, as if the same had been made upon Oath ; and all Constables, Collectors, and Persons concerned, are to conform themselves accordingly.

Proviso.

Provided always, That such Assessments that have been made, and the Assessors not under Oath, and the whole or any Part thereof not collected ; that in all such Cases Oath shall be made by those Assessors living that made the Assessments, if thereunto required, that they acted impartially and according to their best Skill and Judgment : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VIII.

An Act to prevent mispending Money in Taverns.

4 W. & M.
ca. 7.

Preamble.

WHEREAS many Persons are so extravagant in their Expences at Taverns, and other Houses of common Entertainment, that it greatly hurts their Families, and makes them the less able to pay and discharge their honest,

New-Hampshire Duties.

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honest, just Debts; and are encouraged in this Practice, by the Taverners, Retailers and Keepers of Houses of Entertainment giving them too great Credit:

For Remedy whereof:

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Innholder, Retailer, Ale-House-Keeper, or common Victualler, shall after the Publication of this Act, trust or give Credit to any Person inhabiting in the same Town where they are trusted, for Victuals or Drink, for more than *ten Shillings*, such Innholder, Retailer, Ale-House-keeper, or common Victualler shall forfeit all such Sums so trusted; and all Actions to be brought for such Debt or Debts, to be utterly excluded and barred: Any Law, Usage or Custom to the contrary notwithstanding.

Taverner &c.
to forfeit
Debts for
Drink and
Victuals ex-
ceeding 10s.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-third Day of *August*, 1721.

C H A P. I.

An Act for laying fundry Duties on such Goods as shall be imported into this Province, from the Province of *New-Hampshire*, and on such as shall be exported from this Province, thither.

WHEREAS the Government of New Hampshire do exact and take two Shillings a Thousand for every Thousand of Boards brought down the River commonly called *Piscataqua-River*, and transported into this Province; though the Trees out of which the Boards are made, grow upon Lands within this Province, and are cut at Mills in the County of *York*; altho' the Inhabitants of this Government have equal Right with the Inhabitants of the Province of *New-Hampshire*, to pass up and down the *aforesaid* River, by Grant and Purchase; which Exaction therefore is altogether unjust and oppressive:

Preamble.

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the twentieth Day of *October* next, there shall be paid to the Impost Officer, for the Use of this Government, for every Hog-shead of Rum that shall be imported from the Province of *New-Hampshire* into any Parts of this Government, the Sum of *five Pounds*, and so proportionably for greater or lesser Quantities; for every Pipe of Wine, the Sum of *five Pounds*, and so in proportion for greater and lesser Quantities; for all other Sorts of Goods, Wares or Merchandize whatsoever, *ten per Cent. ad Valorem*.

Duties on
Goods im-
ported.

And if any Master or Commander of any Ship or Vessel shall unload any Rum, Liquors, Goods, Wares or Merchandize whatsoever, imported from the Province of *New-Hampshire* into any Ports or Harbours within this Province, before he hath made Report to the Impost Officer of all such Rum, Wine, Goods, Wares or Merchandize whatsoever, and the Value thereof upon Oath, and paid the Duties by this Act enjoined, he shall forfeit and pay the Sum of *One Hundred Pounds*, to be recovered by Bill, Plaint or Information, in any of His Majesty's Courts of Record, the one Half of the said Forfeiture to be applied for and towards the Support of this His Majesty's Government, the other Half to be to and for the Use of him or them that shall inform and sue for the same.

Penalty on
the Master in
Case he un-
load without
reporting.

And

Administration.

Goods to be
confiscated.

And all such Wines, Liquors, Goods, Wares and Merchandize as shall be landed before the Duties paid, shall be liable to be seized and confiscated, upon Proof made in any of His Majesty's Courts of Record, to be disposed of, as by this Act is already provided.

Duties on
Goods ex-
ported.

Be it further enacted by the Authority aforesaid, That there shall be paid for every Barrel of Beef and Pork that shall be exported from this Province into the Province of *New-Hampshire*, the Sum of *ten Shillings*, and so in Proportion for greater and lesser Quantities : For every hundred Weight of Bread the Sum of *five Shillings* ; for every Bushel of Wheat *one Shilling* ; for every Bushel of Indian Corn or Meal *six Pence* ; and for all other Sorts of Goods, Wares and Merchandize, *ten per Cent ad Valorem*.

Penalty on
the Master
taking Goods
on Board be-
fore report
made.

And that any Master of any Ship or Vessel that shall take on Board any Rum, Liquor, or other Goods, Wares and Merchandize, in order to be transported to the Province of *New-Hampshire*, before he hath reported to the Impost-Officers the Quantity and Value of all such Wines, Liquors Goods, Wares and Merchandize, and paid the Duties therefor, shall forfeit and pay the Sum of *One Hundred Pounds* to be recovered and disposed of as by this Act is already provided.

Goods to be
forfeited.

And all such Rum, Liquors, Goods, Wares and Merchandize, that shall be put on Board any Ship or Vessel, in order to be transported into the Province of *New-Hampshire*, that have not paid the aforesaid Duties, shall be forfeited and disposed as aforesaid, upon Proof made in any of His Majesty's Courts of Record.

Oath to be
given to the
Importer or
Owner.

Be it further enacted, That the Oath to be given by the Importer or Owner of all Rum, Liquors, Goods, Wares or Merchandize as is herein made mention of, shall be in the Words following :

Oath.

"**YOU** *A. B.* do swear, that the Entry of the Goods and Merchandize by " you made, contains the true Value, and agreeable to the Invoice here-
" with exhibited, and that according to your best Skill and Judgment, is not less
" than the real Cost thereof. *So help you GOD.*

Any Law, Usage or Custom to the contrary notwithstanding.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1723.

C H A P. I.

An Act for limiting and regulating the Proceedings of the Judges of Probate, and for granting Letters of Administration in the respective Counties of the Province, in their granting Administration on such Estates as have not been fully administered on already, commonly called, Administrations *de bonis non*.

6 G. ca. 3.

Preamble.

WHEREAS of late Years it hath frequently happened, that the Judges of Probate in some of the Counties of the Province, have granted Letters of Administration *de bonis non*, on the Estates of Persons deceased, even many Years after the Will of such Person has been fully executed, or Administrations on Intestate Estates, made up and finished, under a Pretence that such deceased Person died seized of some Right of Commons in Lands, or other Real Estate, whereby such Administrators have given great Disturbance to the respective Towns or Proprietors that own such Lands, when at the same Time, it is not so much as pretended that there is any personal Estate of the Deceased left unadministred upon, or any Debts remaining unpaid :

For

Stolen Goods.

Distilling Rum.

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For Prevention whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That for the future no Administration *de bonis non* shall be granted on the Estate of any Person deceased, unless Oath be first made, that there are *bona Notabilia*, or a personal Estate of five Pounds Value unadministred on, or there appear to be Debts of the like or greater Value not satisfied.

No Admini-
strations *de*
bonis non to
be granted,
but where
there are *bona*
Notabilia, or
Debts unsat-
isfied.

And be it further enacted by the Authority aforesaid, That in all such Cases where it is alledged, or may be supposed, that the Deceased died seized of some Rights of Lands or Commonages, the same being a Real Estate, Administration shall not be granted thereon, but as the same descends and belongs to the Heirs of the Deceased ; so such Heirs and they only, shall demand, prosecute or sue for the same : And all Actions for such Lands or Real Estate, brought or to be brought by Administrators *de bonis non*, shall be dismissed and for ever barred in the Law : Any Law, Usage or Custom to the contrary notwithstanding.

Rights of
Commonages
to go to the
Heirs.

Actions of a-
ny others for
the same
bar'd.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1723. And continued by Prorogation unto Wednesday the seventh Day of *August* following, and then met.

C H A P. I.

An Act in Amendment of and Addition to an Act Intituled,
An Act against receiving Stolen Goods, made and passed 10 W. ca. 6.
in the tenth Year of the Reign of King *William*.

WHEREAS the Penalty provided in and by the Act against the re-
ceiving Stolen Goods, hath not only proved ineffectual to deter Persons
from committing the said Offence, but the Party injured is often de-
feated of his just Satisfaction by the Offenders avoiding to make Sa-
tisfaction by suffering corporal Punishment : Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and Re-
presentatives in General Court assembled, and by the Authority of the same,
That for the future all Persons offending against the said Law, and being thereof
convict by due Course of Law, that shall not make Restitution, as awarded ;
shall be ordered by the Justices, or Court that may have Cognizance thereof, to
make Satisfaction by Service, and be disposed of for that Purpose, in like
Manner as is provided in Case of Theft, and be further punished by whipping,
not exceeding twenty Stripes, at the Discretion of the said Court. Persons that
receive stolen
Goods to be
punish'd as in
Case of Theft.

C H A P. II.

An Act for preventing Abuses in distilling of Rum, and other
strong Liquors, with Leaden Heads or Pipes.

WHEREAS the strong Liquors and Spirits that are distilled thro' leaden
Heads or Pipes, are judged on good Grounds to be unwholsome and hurt-
ful ; notwithstanding which, some Persons to save Charge, may be led
into the making or using of such Heads, Worms or Pipes : Preamble.

For

Distilling Rum.

For Remedy and Prevention whereof :

No leaden
Heads or
Worms to be
used in distil-
ling, upon
Penalty.

Be it enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person whatsoever, shall make Use of any such leaden Heads or Worms for the future ; and that whosoever shall presume to distil or draw off any Spirits or strong Liquors through such leaden Heads or Worms, upon legal Conviction thereof, before any of his Majesty's Courts of Record, shall forfeit and pay a Sum of *One Hundred Pounds*.

No Braziers,
&c. to make
Worms or
Heads of base
Pewter or
Lead.
Penalty.

And be it further enacted by the Authority aforesaid, That no Brazier, Pewterer, or other Artificer whatsoever, shall presume to make any Worm or Head (for distilling) of coarse and base Pewter, or such as hath any Mixture of Lead in it ; under the Penalty of *One Hundred Pounds*.

Affay-masters
their Duty.

And be it further enacted, That in each Town within this Province, where the Distilling Trade is carried on, it may be lawful for the Inhabitants thereof, at their annual Town Meeting in *March* for Choice of Town Officers, to chuse two or more Assay-Masters, whose Business it shall be to inspect and make trial of any such Heads and Worms as shall be suspected by them, and if upon their Assaying and Trial of them, they be found to be made of Lead, or of other base Mettle, or to have an Alloy of Lead or of other base Mettle in them, they shall give Notice thereof to the Distiller or Owner thereof ; who is hereby forbidden to make any farther Use thereof in Distilling, under the aforesaid Penalty of *One Hundred Pounds*.

And Power.

And be it further enacted by the Authority aforesaid, That the Assay-Masters or Inspectors are hereby impowred to enter into any Still-House or Place where such such Utensils are suspected to be kept, and to cut off so much of them, as shall be needful to make an Assay or Trial of them. And every Distiller

Affayers Cer-
tificate to be
produced.

shall be obliged to produce a Certificate under the Hands of the Assay-Masters, for the Time being for all the Pewter Heads and Worms which they shall make Use of in Distilling, that they have been tried and are approved of by

Upon Penalty.

them for good Pewter, and that they have put their Mark and Number upon them, for which Mark, a Stamp shall forthwith be prepared at the Town Charge : For which Certificate, and every Assay made by them, they shall be allowed by the Distiller or Owner of such Heads and Worms, the Sum of *five Shillings* : The said Certificate with Mark and Number to be entred in the Town Clerk's Book, for which Service the Town Clerk shall be allowed *six Pence*.

Certificate to
be entred
with the
Town Clerk.

Fines how
disposed.

And be it further enacted by the Authority aforesaid, That all Forfeitures and Penalties arising by Virtue of this Act shall be the one Half to the Poor of the Town where the Offence is committed, and the other Half to him or them that shall inform and sue for the same.

Affay-masters
appointed.

And further. That Capt. *Thomas Smith*, Mr. *Jonathan Jackson*, and Mr. *Jonas Clark*, of *Boston*, be the first and present Assay-Masters for the Towns of *Boston* and *Charlestown*, and that they and all others, hereafter chosen to that Office, shall make Oath as follows, viz.

Affay-masters
Oath.

I A. B. do solemnly Swear, That I will to the best of my Skill, prove and make Trial of all Worms and Still-Heads, within the Town of C. that are used or designed to be made Use of in Distilling, that shall come to my Knowledge, for which there is no Certificate in the Town Clerk's Book, and will make a true and faithful Report thereof to the Town Clerk for the Time being.
So help me GOD.

Support of Ministers.

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An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1723. And continued by several Prorogations unto Wednesday the twenty-third Day of *October* following, and then met.

C H A P. III.

An Act in Addition to the Act for the more effectual providing for the Support of Ministers.

WHEREAS in and by an Act made in the first Year of the Reign of her late Majesty Queen ANNE, Intituled, An Act for the more effectual providing for the Support of Ministers, the Inhabitants of each District or Precinct regularly set off from any Town, are impowered to choose Assessors for the assessing and raising a Maintenance and Support for the Minister of such District or Precinct, and other Precinct Officers: But no Provision or Direction is yet made in the Law for the first calling and assembling the Inhabitants of any District, Precinct or Parish regularly set off from any Town in the Province; for want of which, many Inconveniencies have arisen, and may still arise:

Preamble:

For Remedying whereof:

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful for any Justice of the Peace in the County where such Precinct, District or Parish, regularly set off, (as aforesaid) is; and such Justice is hereby impowred upon Application to him made by five or more of the Freeholders of such Precinct, District or Parish, by writing under their Hands for calling of a Meeting, to issue out a Warrant for the assembling of such District, Precinct or Parish, as aforesaid, directed to one of the Freeholders, asking the same, requiring him to notify the Freeholders and other Inhabitants (qualified by Law to vote in Town Affairs) of the Meeting, and the Time and Place for the same; which Notification shall be giving in Writing posted up in some publick Place or Places, within the said District, Precinct or Parish, fourteen Days before the Day appointed for the Meeting: And such and so many of the Freeholders and other Inhabitants, as aforesaid, that are assembled and met accordingly, shall have Power by a major Vote to choose a Moderator, as also a Clerk to enter and record all Votes and Orders, that from Time to Time shall be made and passed in the said Precinct, District or Parish Meetings, who shall be sworn to the faithful Discharge of his Office, as the Law directs for the swearing of Town Officers; and further to choose a Committee for calling of Meetings of the Precinct, District or Parish for the future: And no other Affair shall be transacted at any such Meeting, than what is expressed in the Warrant or Notification for such Meeting.

Justices of Peace upon Application to call Precinct Meetings.

Nothing to be pass'd but what is contain'd in the Warrant.

Special Courts. Admission of Inhabitants.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-seventh Day of *May*, 1724.

C H A P. IV.

12 A. ca. 4. An Act in Addition to the Act for holding special Courts of Assize and General Goal Delivery.

Preamble.

WHEREAS in and by an Act made in the twelfth Year of the Reign of her late Majesty Queen ANNE. Provision is made for the calling and holding special Courts of Assize and General Goal Delivery, for the Trial of Offenders in Cases of Murder only on extraordinary Occasions, when the ordinary Time set and stated by Law for the holding the Superiour Court of Judicature, Court of Assize and General Goal Delivery, in the respective Counties, happens to be at a considerable Distance from the Time of the Offenders being apprehended: And it being found necessary that there should be the like Provision made for the Trial of Offenders in all capital Cases:

Special Courts of Assize to be held for trial of any capital Offenders.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful to and for the Governour or Commander in Chief, for the Time being, by and with the Advice and Consent of the Council, upon any extraordinary Occasion and Emergency, as aforesaid, by a Precept directed to the Justices of the Court of Assize, and General Goal Delivery, to order and appoint them to hold a special Court, as soon as may be, for the Trial of any capital Offender or Offenders, where the Offence is by Law made Felony of Death, and to cause *Venires* to be issued forth for the summoning Jurors for such Court out of the several Towns, as usual, for the stated Courts, and to make out all other necessary Processes, and do what else shall be requisite, according to the Powers given them in and by the Act for establishing a Superiour Court of Judicature, Court of Assize and General Goal Delivery. And the Judges and Officers of such special Court, to have such Allowance for their Attendance and Service, as shall be ordered by this Court.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-seventh of *May*, 1724. And continued by several Prorogations unto Wednesday the eleventh Day of *November* following, and then met.

C H A P. I.

13 W. ca. 10. An Act for the better Regulating the Admission of Town Inhabitants within the Province of the *Massachusetts-Bay*.

Preamble.

WHEREAS in and by an Act or Law of this Province made and pass'd in the eighth Year of his present Majesty's Reign, Intituled, An Act in Addition to an Act directing the Admission of Town Inhabitants, made and pass'd in the thirteenth Year of the Reign of King William the third; It is therein enacted, " That upon the arrival of any Ship or Vessel

" in

Admission of Town Inhabitants.

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in any Port or Harbour within this Province transporting any Passengers, Servants or others whatsoever, and before Bulk be broken, or such Passengers, Servants or others be suffered to land or come on Shore, the Master of such Ship or Vessel shall repair to the Select-men or Treasurer of such Town where no Receiver of Impost dwells, and give in a List or Certificate of all the Passengers, Servants and others he has brought in his Ship or Vessel from beyond Sea, with their Circumstances, and Merchandize they bring with them, as near as can be: And the Master of such Ship or Vessel shall enter into sufficient Bonds to the Satisfaction of the said Select-Men or Treasurer of the Town where the Ship or Vessel arrives, to save such Town harmless from all Manner of Charge arising or that may arise to the same Town, by Reason of such Passengers, Strangers, Servants or others arriving among them."

Recital from
an Act of the
8th of King
GEORGE
which is re-
peal'd and
not printed
in this Book.

And whereas the true Intent of the said Act was to prevent the Importation of poor, vicious and infirm Persons, who might prove either a publick Charge to the Province in general, or to some particular Town, without any Design to lay a Difficulty or Discouragement upon Trade:

We it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any Ship or Vessel importing any Passengers, shall arrive in any Port or Harbour within this Province, the Master of such Ship or Vessel before Bulk be broken, or such Passengers be suffered to land or come on Shore, shall repair to the Select-men or Treasurer of such Town where no Receiver of Impost dwells, and give in a List or Certificate of all the Passengers he has brought in his said Ship or Vessel beyond Sea, with their Circumstances, and the Merchandize they bring with them, as near as can be: And such Passengers as can make it appear, that they then bring with them into this Province Effects to the Value of *fifty Pounds*, (not including necessary Household Goods and wearing Apparel) as likewise all able-bodied Husbandmen, Mariners, Handycrafts-men, Labourers and indented Servants; provided they are not Persons of vicious Conversation, or ill Fame, shall be and hereby are admitted to Land without the Master's being subject to give Security: But as for all others, the Master of such Ship or Vessel shall enter into Bond within five Days after his arrival as aforesaid, with sufficient Sureties to the Satisfaction of the said Select-men or Treasurer, as aforesaid, in a Sum not exceeding *One Hundred Pounds* for each Passenger, to save such Town harmless from all Manner of Charge arising, or that may arise to the said Town from such Passengers for and during the term of five Years; on Pain of forfeiting the Sum of *One Hundred Pounds* for the Use of the Poor of the Town or Place where such Passengers shall be landed, or set on Shore: And in Case any Passenger or Passengers shall give sufficient Security for themselves to the Acceptance of the Select-men or Treasurer, as aforesaid, the Master of the said Vessel is exempted from giving Bond so far as relates to them.

Masters of
Ships to give
Security for
their Passen-
gers.

Persons ex-
empted from
having Secu-
rity for them.

Bond for five
Years.

Penalty for
not giving
Security.

And be it further enacted by the Authority aforesaid, That the Master of every Coasting Vessel, Wood Sloop, Fishing Vessel or others, coming from any Port or Harbour of this or any neighbouring Governments into *Boston*, or any other Port or Harbour within this Province, shall within twenty four Hours after his Arrival deliver to the Receiver of Impost, where such Officers are, and where none are, to the Select Men or Treasurer of the Town, a perfect List or Certificate of the Christian and Sir-Name of all Passengers brought in such Vessel (which are not settled Inhabitants of any Town in this Province) and their Circumstances, so far as he knows, and give Bond as aforesaid, on Pain of forfeiting the Sum of *One Hundred Pounds*, for the Use of the Poor of the Town or Place where such Passengers shall be landed, or put on Shore: And the Forfeitures in this Act mentioned to be recovered by Bill, Complaint or Information, by the Select-Men or the major Part of them, or the Treasurer of such Town where the Ship or Vessel arrives, in any of His Ma-

Lists and Se-
curity to be
given for Pas-
sengers in
Coasting Vef-
sels, &c. on
the same Pe-
nalty.

jeſty's Courts of Record within this Province: Any Law, Uſage or Cuſtom to the contrary thereof notwithstanding.

The former
Act repealed.

And the afore ſaid Act in Addition to the Act directing the Admission of Town Inhabitants, is hereby repealed and declared void.

CHAP. II.

- 4 G. 2. ca. 1. An Act to enable the Executors or Adminiſtrators of Conſtables or Collectors deceaſ'd, to ſue for and recover any Aſſeſſments not collected by them in their Life-time.

Preamble.

WHEREAS the ſeveral Conſtables and Collectors that have Rates or Taxes committed to them to collect, ſtand by Law indebted and are obliged to pay in the ſame to the ſeveral and reſpective Treaſurers or Receivers of the Rates and Taxes within this Province: But no Proviſion is yet made in the Law for the Executors or Adminiſtrators of any ſuch deceaſed Conſtables or Collectors, who have not ſettled and made up their Accompts, as by the ſaid Law is provided, to gather in or collect the ſame, or ſo much thereof as may happen to be unpaid:

Executors or
Adminiſtra-
tors of decea-
ſed Conſtables
or Collectors
impowred to
collect Rates.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court aſſembled, and by the Authority of the ſame, That when and ſo often as it ſhall ſo happen that any Conſtable or Collector within this Province heretofore deceaſed, or that ſhall die before he ſhall have collected the ſeveral Sums committed to him by lawful Authority to collect of the Inhabitants of this Province for their Town, Precinct, County or Province Tax, that then and in ſuch Caſe, it ſhall and may be lawful for the Executors or Adminiſtrators of ſuch deceaſed Conſtables or Collectors to levy and collect ſuch Sums of the Inhabitants named in the Liſts to them ſeverally committed, as upon the deceaſe of ſuch Conſtables or Collectors ſhall appear due or unpaid to them reſpectively: And ſuch Executors or Adminiſtrators by themſelves, or their Attorneys, are hereby impowred to do, perform and execute all the Powers granted by Law to the ſeveral Conſtables and Collectors in ſuch Caſes: Any Law, Uſage or Cuſtom to the contrary notwithstanding.

CHAP. III.

An Act for Explanation of, and in Supplement to an Act, Intituled *An Act for High-Ways*, made in the fifth Year of the Reign of King William and Queen Mary.

5 W. & M.
ca. 10.

Preamble.

WHEREAS in and by an Act made and paſſ'd in the fifth Year of the Reign of King WILLIAM and Queen MARY, Intituled An Act for High Ways, the Inhabitants of each Town reſpectively within this Province are obliged (without reaſonable Excuse made) under certain Penalties to attend by themſelves, or other ſufficient Perſon in their Steads, or with their Carts and Teams, for the keeping in Repair and amending from Time to Time all High-Ways &c. lying within the Precincts of ſuch Town, upon convenient publick Notice given them by the Surveyors for the ſaid Work, as by the ſaid Act more fully appears: But forasmuch as there is no Direction in the ſaid Act for ſtated Limits to be obſerved by the ſaid Surveyors in repairing and amending the ſaid high Ways, and great Inconveniencies have happen'd or ariſen in many Towns:

Select-men
&c. to appoint
Diſtricts to
the Surveyors
of High Ways.

For Remedy whereof:

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court aſſembled, and by the Authority of the ſame, That the Select-Men of each reſpective Town within this Province, with

Charlestown Ferry.

with one or more Justices of the Peace in those Towns where such there are ; or otherwise, the Select-Men by themselves, shall be and hereby are directed and impowred to appoint to the Surveyors of such Town, their several Divisions or Districts for repairing and amending from Time to Time, all High-Ways lying within the same ; which the said Surveyors are hereby required to observe and conform unto.

And to the Intent that all Persons liable by the said Act to Work in the High-Ways may have such Notice to attend the said Work, as in and by the said Act is provided :

Be it further enacted by the Authority aforesaid, That the Surveyors respectively be and hereby are required (extraordinary Casualties excepted) six Days at least before the Day appointed for providing Materials and working in the High-Ways, to notify such Persons to attend the said Work, either by themselves or other sufficient Persons in their Stead, or with their Carts and Teams ; the said Notifications to be by writing under the Hands of the said Surveyors, signifying the Time and Place of Attendance, and to be left at the Place of such Persons usual abode. And if any Person being so notified make Default of attending said Work by himself or other sufficient Person in his Stead, or with his Cart and Team, as he shall be appointed ; he shall forfeit the Sum of *five Shillings* for each Days Neglect, and for Default of his Cart and Team with a Driver, *ten Shillings* per Diem ; one Moiety of the said Forfeitures to be to the Use of the Surveyors, the other Moiety to be to the Use of the Town, and to be recovered as in and by the said Act is provided : Any Law, Usage or Custom to the contrary notwithstanding.

Surveyors to
notify Persons
to work in
the High-
Ways.

Provided, That this Act shall not extend to the preventing or altering the Practice in any Town of defraying the Charge of repairing or amending the High-Ways by a Rate or Tax, or any other Method they have or shall agree upon ; any Thing herein contained to the contrary notwithstanding.

Proviso.

C H A P. IV.

An Act in Addition to an Act, Intituled, *An Act for the better Regulating the Ferry over Charles-River, betwixt Boston and Charlestown*, made in the ninth Year of the Reign of the late Queen Anne.

WHEREAS it is found necessary for the expeditious Passage both of Man and Horse over Charles-River, that there be more Boats than three, which are already by Law established :

Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the twenty-fifth Day of March next, there be four sufficient Boats kept and maintained for the more speedy Transportation of Men and Horses over the said Ferry ; and two Boats shall be passing at one and the same Time, and not more than one Boat at either of the Shores, under the Penalty of *twenty Shillings* ; one Third to the Informer, one Third to the Use of the Poor of the Town of Boston, and the other Third to the Poor of the Town of Charlestown ; to be recover'd by Information or Complaint made to any Justice of the Peace, who may restrain the Offender or Offenders until he or they shall pay the same.

Four Boats to
ply at Charle-
stown Ferry.

One Boat only
to be at each
Shoar.

Penalty.

And be it further enacted by the Authority aforesaid, That there be made, and from Time to Time kept in good Repair sufficient and convenient Ways, for passing to and from the Ferry Boats at the landing Place on either Side, at the Charge of the Persons who have the Profit or Income arising by the said Ferry : Any Law, Usage or Custom to the contrary notwithstanding

Convenient
Ways to be
kept at the
Ferry.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May* 1725. And continued by several Prorogations unto Wednesday the third Day of *November* following, and then met.

C H A P. I.

10 W. ca. 1. An Act in Addition to an Act Intituled, An Act *enabling Sheriffs and Constables to require Aid, &c.* made in the tenth Year of the Reign of the late King *William*.

Preamble.

WHEREAS notwithstanding the Provision made in the said Act, some Question has arisen upon the Power of Constables, Whether they have any Authority to convey any Persons by them apprehended in pursuance of any lawful Warrants or Writs to them directed, any further than through their own Towns and Precincts?

Constables
Authority in
the Execution
of Writs and
Warrants.]

Be it declared and enacted by the Lieutenant Governour, Council and Representatives in General Court assembled. and by the Authority of the same, That the Constable or Constables of the several Towns within this Province, have full Power and Authority, in the Execution of the several Warrants or Writs to them directed, by lawful Authority, to convey as well any Prisoner or Prisoners, as Things that they may take into their Custody, either to the Justice issuing such Warrant or Writ, or the common Goal of the County where such Constable is an Inhabitant, according as in the Writ or Warrant may be directed.

C H A P. II.

An Act to empower the Sheriffs, Constables and other Officers of Justice in the neighbouring Provinces and Colonies, as well to pass and repass, as to convey such Persons or Things as may be in their Custody, on the Service of any Writ, Warrant or other Process, by and through any of the Roads or publick Ways lying in or leading through any of the Towns or Lands of this Province.

Preamble.

WHEREAS many of the Towns of this Province and the neighbouring Provinces or Colonies of *New-Hampshire*, *Connecticut* and *Rhode-Island*, and the publick Roads leading to and from one another, are so intermixed, that the Officers of Justice of the respective Provinces and Colonies in the Execution of Writs, Warrants, and other Processes, are oftentimes obliged (the Roads or direct Way so leading) to pass and even to convey Prisoners through Towns or Lands not belonging to or under the Jurisdiction of the Province or Colony unto which the Sheriff, Under-Sheriff, Constables, or other Officers of Justice executing such Writ, Warrant or other Process belongs, and where the Writs or Warrants are returnable, but to the neighbouring Colony or Province; whereupon some Dispute, Difficulty or Inconvenience might arise, as well to the Prejudice of the publick Good, as to the Damage of private Persons:

For

Registry of Deeds.

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For Remedy, whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Sheriffs, Under-Sheriffs, Constables, or other Officers of Justice of the neighbouring Provinces or Colonies, with their Assistants, in the Execution of any Writs, Warrants or other Process, issuing from and returnable to their respective Provinces or Colonies, may and shall have full Liberty Power and Authority, to pass and repass, and also to convey such Persons or Things as they have in their Custody by Virtue of any Writ or Warrant as aforesaid, in or by any of the Roads or Ways lying in or leading through any of the Towns or Lands of this Province, in as full and ample Manner as the Officers of Justice of this Province do use and exercise in the Discharge of their Duty and Office: And all Persons insulting or obstructing such Officers of Justice of the neighbouring Colonies or Provinces, in the due Execution of their Office, as they are passing through any of the Roads or Lands of this Province, shall be subject to the same Pains and Penalties, as is provided for the Protection of the proper Officers of Justice within this Province.

Sheriffs, &c. of the Neighbouring Provinces allow'd to pass and repass, in this Province, &c.

Penalty for obstructing them.

C H A P. III.

An Act in Addition to the several Acts for the more safe keeping the Registry of Deeds, and Conveyances of Lands.

WHEREAS in an Act made and pass'd in the first Year of his present Majesty's Reign, Intituled, An Act for the more safe keeping the Registry of Deeds and Conveyances of Lands (which Act was temporary, but made perpetual by an other Act made in the seventh Year of his Majesty's Reign, Intituled, An Act in Addition to an Act Intituled An Act for the more safe keeping the Registry of Deeds and Conveyances of Lands) it is among other Things enacted, "That in Case of Non-acceptance, Death or Removal of any Person elected to be Register of Deeds, in any of the Counties of this Province, two or more of His Majesty's Justices within such County (*Quorum Unus*) be impowred to grant out their Warrants directed to the Select-men of the several Towns within such County, ordering them forthwith to convene the Freeholders of the respective Towns, and proceed to the Choice of some other meet Person, the said Votes to be brought in as in the Election of County Treasurer." Which is to the next Court of General Session of the Peace: By which Method a Vacancy may happen in the said Office for some Months, to the great Damage and Risque as well of particular Persons, as of the County in general :

9 W. ca. 7.
1 G. ca. 4.
7 G. ca. 5.

For Remedy of which Inconvenience :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any two or more of His Majesty's Justices of the Peace (*Quorum Unus*) within any of the respective Counties of this Province (living in or near the Shire Town) shall in Case of the Non-Acceptance, Death or Removal of any Person elected Register of Deeds for such County, grant out their Warrants, directed to the Select-men of the several Towns within such County, ordering them forthwith to convene the Freeholders of their respective Towns, and proceed to the Choice of some other meet Person, as aforesaid: The said Justices shall make their Warrants returnable to themselves at a certain Day, as soon as conveniently may be, ordering the said Select-men to seal up the Votes for Register, and return them together with the said Warrants: And the abovesaid Justices shall at the same Time give out their Notifications to the other Justices of such County of their Proceedings herein, desiring them to meet upon the Day appointed for the Return of the said Warrants, at some certain Place in the Shire Town; and the major Part of the Justices of such County being met together

Warrants for chusing a Register of Deeds to be return'd to the Justices issuing them, in Case of the Death, &c. of the Register.

on such Day, the said Votes for Register shall be opened and sorted in Presence of the said Justices, and the Person having the most Votes shall be Register of Deeds for such County, until the Time appointed by Law for the Election of Registers throughout this Province.

Clerk of the Pleas to receive Deeds &c. in Case of a vacancy in the Register's Office.

And be it further enacted by the Authority aforesaid, That immediately upon a Vacancy in the Office of Register of Deeds in any County within this Province, the Clerk of the Inferiour Court of Common Pleas, being first sworn before two of his Majesty's Justices of the Peace (*Quorum Unus*) for the faithful Discharge of this Trust, shall take into his Custody the several Books wherein the Deeds and Conveyances of Lands are register'd, together with the Deeds and other Papers lying in the said Office, and that the said Clerk be and hereby is impower'd to receive the Deeds and other Instruments brought to be Registred. and he shall note upon them the Time of their being received, and the Record shall bear Date accordingly, for which he shall be allowed *six Pence* for each Deed, and no more: And upon the Appointment of a new Register as aforesaid, he shall deliver up the said Books, Deeds and Papers into his Hands: Any Law, Usage or Custom to the contrary notwithstanding.

The Clerk's Fee for receiving Deeds &c.

C H A P. IV.

12 W. ca. 6.

An Act in further Addition to the several Acts or Laws of this Province, relating to the Office and Duty of a Coroner.

Preamble.

WHEREAS by the aforesaid Acts, a Coroner is not impowred to constitute or appoint a Deputy or Deputies under him, to serve such Writs as he is enabled by Law to serve, so that by Reason thereof there may be a Failure or Delay of Justice:

For Prevention whereof:

Coroners impowred to appoint Deputies for serving Writs, &c.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, it shall and may be lawful for the several Coroners within this Province to constitute and appoint one or more Deputies, for and within their respective Counties; and the Persons so deputed and sworn, are hereby authorized to serve and execute all such Writs and Process, as shall be directed to the Coroner or his Deputy, wherein the Plaintiff, Defendant or Complainant shall be a Sheriff, Under-Sheriff or Deputy of any of the Counties within this Province: Any Law, Usage or Custom to the contrary notwithstanding.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of May, 1726.

C H A P. V.

10 W. ca. 5.

An Act in Addition to, and for rendring more effectual an Act made in the tenth Year of the Reign of King *William* the third, Intituled, *An Act for preventing of Trespasses.*

Preamble.

WHEREAS the Act or Law already made for the preventing Trespasses hath been found ineffectual for that Purpose, so that a further Provision is necessary to be made:

Be

Trespases.

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Be it therefore enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person or Persons do or shall cut, fell, destroy, or carry away any Trees, Timber, Wood, or Under-wood whatsoever, standing, lying or growing on the Land of any others, or off or from the Commons of any Town, other than that to which he or they belong, or within the same Town, having no Right or Privilege there, without Leave or Licence from the major Part of the Propriety of such Commons, or the Owner or Owners of the Land whereon such Trees, Timber, Wood or Underwood was standing, lying or growing; on Pain that every Person so cutting, felling, destroying or carrying away the same; or that shall be aiding or assisting therein, shall for every such Trespass forfeit and pay to the Party or Parties injured or trespassed upon, the Sum of *forty Shillings* for every Tree of one Foot over; and for all Trees of greater Dimensions three Times the Value thereof, besides *forty Shillings*, as aforesaid, and *twenty Shillings* for every Tree or Pole under the Dimension of one Foot Diameter, and for other Wood or Under-wood, treble the Value thereof; which several Penalties, Forfeitures and Damages, shall and may be recovered by Action Bill, Plaint, or Information upon Conviction of the Trespasser or Trespassers, as is hereafter specially provided and enacted, before any Justice of the Peace in the County where the Trespass is committed; if the Penalty or Damage exceed not *forty Shillings*, but if it be above that Value, then before the Court of Common Pleas in the same County.

Fines for cutting Trees, Timber, Underwood, &c. without Licence.

And be it further enacted, That if any Person or Persons shall throw or leave open any Bars, Gates, Fence or Fences, belonging to or inclosing any Lands held in Propriety or Common, or belonging to any particular Person or Persons, within any Town in this Province, or that shall dig up or carry away any Stones, Oar, Gravel, Clay, Sand, Turf or Mould, Roots or Plants, belonging to the Proprietors of any common Lands, or to any particular Person or Persons, as aforesaid, shall for every such Trespass, upon Conviction thereof, as in and by this Act is hereafter provided, forfeit and pay treble Damages, and also a Sum not exceeding *five Pounds* to the Party or Parties injured thereby, according to the Nature and Aggravation of the Trespass; to be recovered in Manner, as aforesaid.

Fine for throwing open Fences, Gates, &c.

And for carrying away Stones, Oar, Gravel, &c.

And forasmuch as it is very hard and difficult to detect and convict any Trespasser or Trespassers against this Act, in the ordinary Course and Method of the Law, by Reason the Trespases are generally committed where positive Evidences can scarcely ever be had:

Preamble.

Be it therefore further enacted by the Authority aforesaid, That in Case any Dispute arise upon any Action, Bill, Plaint or Information brought, as aforesaid, where the Plaintiff, Complainant or Informer shall charge the Defendant in Trespass for cutting, felling, destroying or carrying away any particular Tree or Trees, parcels of Timber, Wood or Under-wood, or for throwing down or leaving open any Fence or Fences, Gates or Bars; or for digging up or carrying away any Stones, Oar, Gravel, Clay, Sand, Turf or Mould, Roots or Plants, off or from any such Land, as aforesaid, or of being aiding or assisting therein: Then and in such Case, if the Plaintiff, Complainant or Informer, or his Agent, or Attorney, shall make Oath *bona fide* that there hath been cut, fell'd, destroyed or carried away such and so many Trees, parcels of Wood or Under-wood; or that any Fence or Fences, Gates or Bars have been thrown down or left open; or that any Stones, Oar, Gravel, Clay, Sand, Turf or Mould, Roots or Plants hath been dug up or carried away, as mentioned in the Writ; and that he suspects the Defendant to have committed the said Trespass; and although the Plaintiff, Complainant or Informer, or his Agent or Attorney may not be able to produce any other Evidence thereof, than such Circumstances as render it highly probable in the Judgment of the Court or Justice, before whom the Trial is, then and in every such Case, unless the Defendant shall acquit himself upon Oath (to be administered to him by the Court or Justice

Manner of Conviction of the aforesaid Crimes.

that shall try the Cause, the Plaintiff shall recover against the Defendant Damages and Costs; but if the Defendant shall acquit himself upon Oath as aforesaid; the Court or Justice may and shall enter up Judgment for the Defendant to recover against the Plaintiff double his Costs occasioned by such Prosecution.

Preamble.

And whereas several ill-minded Persons, of late as well in the Night Time as the Day, (being disguised and painted) have pillaged and committed great Spoil in Cedar Swamps, and other Lands, and have laid open the Inclosures of particular Persons, by pulling down or destroying the Fences about them, not only to the great Damage of the Proprietors, or Persons interested, but also to the Injury of the Publick:

Punishment for Persons disguised or painted that commit Trespasses.

Be it therefore enacted by the Authority aforesaid, That if any Person or Persons having his or their Face or Faces blacked, painted or any Ways disguised, shall either by Day or Night commit any of the Trespasses aforesaid, or shall beat and abuse any of His Majesty's good Subjects, and be thereof convicted by due Course of Law, such Person so trespassing shall over and above the Damages aforementioned in this Act, be whip'd at the publick whipping Post, not exceeding twenty Stripes, as the Nature of the Trespass may require: Any Law, Usage or Custom to the contrary notwithstanding.

Proviso.

Provided, That nothing in this Act shall be construed so as to debar or hinder the Surveyors of High Ways of doing any Thing necessary and convenient in and about their Duty, as by Law impowred.

This Act to be in Force from the seventh Day of August next.

C H A P. VI.

An Act against Hawkens, Pedlars and Petty Chap-Men.

Preamble.

WHEREAS Complaint has been made of great Hurt to, and Decay of Trade occasion'd by Hawkens, Pedlars and petty Chap-Men passing to and fro through the Country to vend Goods, Wares, and Merchandizes:

For Remedy of which Mischief:

No Hawker, Pedlar, or petty Chap-man to be allowed.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Hawker, Pedler, petty Chap-men, or other trading Person or Persons going from Town to Town, or other Mens Houses, and travelling either on Foot or with Horse, Horses, or otherwise, carrying to sell or exposing to Sale either in any Market, or in any House in any Town or Village, whereof such Person or Persons is not an Inhabitant, any Wares, Goods or Merchandizes, shall be permitted or suffered within this Province, on Pain of forfeiting all such Goods, Wares or Merchandize by him or them exposed to Sale, or so conveyed or transported, as aforesaid; one Third thereof to His Majesty to and for the Use and Support of the Government of this His Majesty's Province, one Third thereof for the Use of the Poor of such Town the where Offence is committed, the other Third to him or them that shall inform against and prosecute such Offender or Offenders for the same, to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record within this Province, and shall further incur the Penalty of twenty Pounds, to be recovered in Manner as aforesaid, for the Uses aforesaid.

Goods to be forfeited.

Justice of the Peace to summon Hawkens &c. before him and bind them over.

And be it further enacted by the Authority aforesaid, That it shall be in the Power of any of His Majesty's Justices of the Peace upon View, Complaint or Information to him made of any such Breach or Offence, to summon before him, and bind over such Offender or Offenders to the next Court of General Sessions of the Peace in the County where such Offence shall be committed; and for want of sufficient Security, to commit such Offender or Offenders to the common Goal of the County, to answer to the Complaint that shall then and there be exhibited against him or them, and also to secure all such Goods, Wares and Merchandize until the Trial.

And

Scyths. Appeals.

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And all Taverners, Ale-House-Keepers, common Victuallers and Retailers, are hereby strictly forbidden to receive, or give any Entertainment to any Hawker, Pedlar, or petty Chap-man, or other trading Person, as aforesaid, on the Penalty of *twenty Shillings* for each Offence, to be disposed of in Manner as aforesaid. Taverners &c not to give Entertainment to them. Penalty.

And all Justices, Sheriffs, Under-Sheriffs, Grand-Jurors, Constables, Tything-Men, and all other Officers, are hereby strictly enjoined and required, to exert their utmost Vigour and Power to see that this Law be duly put in Execution. Officers to see this Act put in Execution.

C H A P. VII.

An Act to prevent Persons from riding with naked Scyths.

WHEREAS divers Persons going to and returning from their Labour, do frequently ride with naked Scyths on high Ways, or through Lanes and Allies, which may prove hurtful to themselves and others : Preamble.

For Prevention whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Person or Persons from and after the Publication of this Act shall ride with a naked Scyth on the High Ways, or through any Lanes or Alleys ; such Person or Persons shall forfeit and pay for every Breach of this Act, upon Conviction thereof before any of his Majesty's Justices of the Peace, the Sum of *ten Shillings* ; one Half thereof to the Poor of the Town where such Offence is committed, and the other Half to the Informer that shall prosecute or sue for the same. No Person to ride with naked Scyths on the High-Ways, &c.

C H A P. VIII.

An Act for the Restraining and better Regulating Appeals from the Court of General Sessions of the Peace, and Inferiour Court of Common Pleas, within the Island of *Nantuckett*.

WHEREAS by the Act for establishing a Superiour Court of Judicature Court of Assize and General Goal Delivery within this Province ; Preamble.
It is provided, " That the Trial of all Matters and Causes by Appeal from the Court of General Sessions of the Peace, or Inferiour Court of Common Pleas respectively within the said Island of *Nantuckett*, or by Writ of Error relating to any Judgment given in the said Inferiour Court, shall be in the Superiour Court of Judicature Court of Assize and General Goal Delivery, to be held within the Counties of *Suffolk* or *Middlesex*." And whereas there are two Superiour Courts of Judicature Courts of Assize and General Goal Delivery, held in each of the said Counties of *Suffolk* and *Middlesex* in a Year ; one whereof is held at *Charlestown* for the said County of *Middlesex* on the last Tuesday of January, and the other at *Bolton* for the County of *Suffolk* on the second Tuesday of February : And all Appeals and other Matters to be brought forward from the Inferiour Court of Common Pleas and Court of General Sessions of the Peace held in the Month of October at the said Island of *Nantuckett*, lie to one of the said Superiour Courts in January or February, as aforesaid, which hath been found to be very inconvenient ; for that oftentimes by Reason of the Severity of the Weather at that Season, it is very difficult and sometimes impossible for the Parties and others concerned to come to either of the said Superiour Courts, by Means whereof such Persons may loose the Benefit of their Appeals, or other Matters that may be there depending :

G g 2

Wherefore

Wherefore for the Ease and Benefit of the Inhabitants of the said Island of
Nantuckett :

Appeals from
Nantucket to
Boston.
7 W. ca. 8.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Trial of all Matters and Causes by Appeal from the Court of General Sessions of the Peace and Inferiour Court of Common Pleas respectively within the said Island of *Nantuckett*, or by Writ of Error relating to any Judgment given in such Inferiour Court, shall from henceforth be in the Superiour Court of Judicature Court of Assize and General Goal Delivery to be held at *Boston* within and for the County of *Suffolk* on the second Tuesday of *August* : Any Law, Usage or Custom to the contrary notwithstanding.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May* 1726. And continued by several Prorogations unto Wednesday the twenty-third Day of *November* following, and then met.

C H A P. I.

An Act in Addition to an Act for Regulating Ferries.

6 W. & M.
ca. 6.

Preamble.

WHEREAS sundry Persons of late, notwithstanding the Provision already made by Law, do presume to transport Passengers over and a-cross the several stated Ferries within this Province, having no Right or Authority so to do, in Prejudice of those who are assign'd and authorized to that Service, and therefore justly intituled to the sole Benefit of the said Ferries :

For Prevention whereof :

Penalty for
Persons not
authorized
to transport
Passengers
across any
Ferry for
Money.

Liable to pay
Damages to
those that
keep the Fer-
ry.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Person or Persons shall from henceforth presume to keep a Ferry, or transport Passengers over or a-cross any stated Ferry within this Province, so as to demand or receive Pay, having no Right or Authority so to do ; shall for every such Offence pay a Fine of *twenty Shillings* : The one Half to His Majesty, for and towards the Support of this Government, the other Half to him or them that shall inform and sue for the same before one of His Majesty's Justices of the Peace, or at the Court of General Sessions of the Peace in such County where the Offence may be committed ; and be further liable to pay such Damages as may or shall accrue to the Person or Persons assigned and authorized to keep any such stated Ferry or Ferries.

C H A P. II.

An Act in Addition to an Act, Intituled *An Act to enable Towns, Villages and Proprietors in Common and Undivided Lands &c. to sue and be sued*, made in the sixth Year of the Reign of King *William* and Queen *Mary*.

6 W. & M.
ca. 5.

Preamble.

WHEREAS in and by the said Act, " All Persons, Towns, Villages, " Precincts, Trustees for Schools, and Proprietors in Common and " Undivided Lands, Grants and other Estates or Interests whatsoever, " are impowred to sue, commence and prosecute any Suits or Actions in any " Court proper to try the same, and in like Manner to defend all such Suits and " Actions

Proprietors.

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“ Actions as shall be commenced against them, or any of them, &c.” And whereas by the said Act, there is no Provision made for the enabling any such Proprietors to raise Money for the carrying on or defending such Actions, or for any other publick Use in such Propriety; for want whereof many such Proprietors suffer great Loss and Damage in their Proprieties, and lose the Benefit of the said Law: And whereas the Time of fourteen Days for the serving of Writs before the Day of the Sitting of the Court hath by Experience been found too short a Time in such Actions and Suits as are brought against any such Towns, Precincts, Villages and Proprietors, as aforesaid:

For the Remedying whereof, and the enabling Proprietors in Common and Undivided Lands to raise Moneys for the carrying on and prosecuting or defending any such Actions or Suits; or for managing any other publick Affairs in such Proprieties:

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful to and for the Proprietors of any common and undivided Lands, or the major Part of them according to the Interests present, by themselves, or their lawful Attornies, at any Proprietors Meeting that shall hereafter meet upon legal warning to order the raising of any suitable Sum or Sums of Money that shall by them be thought sufficient to carry on and prosecute or defend any Actions or Suits that may be brought by or against them, or for the carrying on or managing any other publick Affairs relating to such Proprieties, and to appoint a suitable Number of Persons belonging to such Propriety, to proportion such Sum or Sums as shall be thought necessary to be raised for the Ends and Uses aforesaid, upon the Proprietors of such common and undivided Lands, according to their several Interests therein; and to appoint a Collector or Collectors to gather in and collect the same; which Collector or Collectors shall be and hereby are fully authorized and impowred to levy and collect the Sum or Sums set and apportioned for such Proprietors to pay, in the same Manner as Constables of Towns within this Province are impowred to levy and collect the publick Rates or Taxes, and to pay in the same to the Proprietors or their Clerk (who is hereby impowred to grant Warrants for levying and collecting such Assessment) at such Time as shall be by them appointed for Payment thereof; and such Clerk shall be accountable to the Proprietors therefor; the Person or Persons so assessing the said Proprietors, and the Collector or Collectors that shall be appointed for the gathering and collecting the Sum or Sums granted and agreed upon by the said Proprietors to be assessed and collected as aforesaid, shall be under Oath for the true and faithful Performance of their Services respectively; which Oath shall be administered to them, as the Law provides for swearing Town Officers.

Proprietors of common Lands impowred to raise Money.

To be collected in the same Manner as the Province Tax.

Assessors to be under Oath.

And be it further enacted by the Authority aforesaid, That when it shall happen Suit shall be brought against any Towns, Precincts or Villages, or against the Proprietors of any common or undivided Lands, the Plaintiff bringing forward such Suit shall cause the Clerk of such Towns, Villages, Precincts or Proprietors, or one or more of their principal Inhabitants or Proprietors, to be served with a Copy of the Writ or Summons at least thirty Days before the Day of the Sitting of the Court, to which the same shall be returnable: Any Law, Usage or Custom to the contrary notwithstanding.

Writs to be served on Towns, Proprietors, &c. 30 Days before the Court.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1727.

C H A P. III.

An Act to disable the several Judges for the Probate of Wills and granting Administration in the respective Counties of this Province from sitting as Judges in Civil Actions, depending on, or relating to any Sentence or Decree, by them made in their Office aforesaid.

6 G. ca. 3.

Preamble.

WHEREAS several of the Judges of the Probate of Wills, and for granting Administration on Intestate Estates within this Province, are, or may be Justices either of the Superiour Court of Judicature, or of the Inferiour Court of Common Pleas ; before whom oftentimes Actions are brought and determined, that depend upon, or relate to the Decree or Sentence of such Judges of Probate : And it being inconvenient that such Judge of Probate should have a Voice in judging or determining such Cases :

No Judge of Probate to be Judge or Attorney in another Court in any Cause wherein he has pass'd a Decree.

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Judge for the Probate of Wills, and granting Administration on Intestate Estates within this Province, shall be allowed or admitted to have a Voice in judging or determining, (nor shall he be admitted to plead, or act as an Attorney) in any civil Action whatsoever, which may depend on, or have Relation to any Sentence or Decree made or pass'd by him in his Office aforesaid : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. IV.

2 A. ca. 5.

An Act in Addition to the Act Intituled, *An Act relating to Executors and Administrators.*

Preamble.

WHEREAS in and by an Act made in the second Year of the late Queen Anne, Intituled, An Act relating to Executors and Administrators, (among other Things) It is enacted, " That any Executor being a residuary Legatary may bring his Action of Account against his Co-Executor or Executors of the Estate of the Testator in their Hands, and may also sue for " and recover his equal and rateable Part thereof ; and any other residuary " Legatary shall have like Remedy against the Executors : " And whereas it often happens that such Executor or Executors move or dwell out of the Province and leave the Estate of the Testator in the Hands and under the Management of their Agent or Attorney, whereby the Co-Executor and residuary Legatee lose the Benefit of the said Act ; by Reason of which manifest Wrong is done :

For Remedy whereof :

Agent of Executors out of the Province liable to Suits, &c.

Be it enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That every Agent or Attorney of any Executor or Executors removed or dwelling out of this Province. shall be liable and subject to every Action and Demand by the Co-Executor or Executors or residuary Legatee, or any other Person, so far as said Agent or Attorney shall have received of the Estate of the Deceased into his own Hands.

Proviso.

Provided always, That the Action be brought within one Year from the Time of the Agents or Attornies receiving such Effects, and not after : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P.

Partition of Lands. Executors, &c.

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C H A P. V.

An Act to enable Guardians to join in the Partition of Lands, or other Real Estate wherein Minors are concerned.

WHEREAS the Partition of Lands, or other real Estate among the Persons concerned, tho' much desired and of great Advantage, is often hinder'd and delay'd by Reason of Infants or Persons under Age being interested in such Estate, to the Damage as well of the Infants, as others therein concerned :

Preamble:

For Remedy whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall be in the Power of the Guardian or Guardians of any Infants concerned in any Real Estate that is common or undivided, upon Application made to, and Leave had from the Superiour Court of Judicature holden for, and within the respective Counties of this Province, where such Lands or Real Estate lie, either by such Guardian or Guardians, or the other Partners interested, to join in and make Partition of such Real Estate, as aforesaid, to and among them : *Provided*, such Partition or Division be made upon Oath by five Freeholders (or the major Part of them) to be appointed by the Justices of the said Superiour Court, and a Return of such Partition to be made to the Clerk's Office of the said Court, and there to be recorded ; which Partition or Division made in Manner, as aforesaid, shall be valid and effectual to all Intents and Purposes in the Law : Any Custom, Usage or Law to the contrary notwithstanding.

Guardians
impower'd to
join in the
Partition of
Lands, &c.

4 W. & M.
ca. 20.

C H A P. VI.

An Act to enable Executors and Administrators to prosecute or defend any Suits that are depending, or hereafter shall depend upon Appeal, wherein the Testator or Intestate was or shall be Appellant or Appellee.

4 W. & M.
ca. 2.

WHEREAS it often happens that after Causes have been heard and tried at the Inferiour Courts of Common Pleas within the several Counties of this Province, the Party who is dissatisfied with the Judgment given, doth appeal therefrom to the next Superiour Court of Judicature to be holden within and for the same County, where the Action has been first tried : And many Times it comes to pass that either the Appellant or the Appellee dies before the Sitting of the Superiour Court appealed to ; by Reason whereof the Great and General Assembly of this Province are often troubled with the hearing of Petitions from the Executors or Administrators, or the surviving Party, and spend much of their Time in passing Resolves for their having Liberty to begin their Suit a new, or for other Relief as the Matter may require ; and by Means of the Death of either Party, pending the Appeal, the Creditor for a long Time hath been kept out of his just Dues, and the Proprietors of Houses and Lands kept out of Possession thereof, for want of a more speedy Remedy in the Law in such Cases :

Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That in Case of the Death of any Party, either the Appellant or the Appellee, before the Sitting of the Superiour Court appeal'd to, the Executor or Executors, Administrator or Administrators of such deceased Party, who was Appellant or Appellee shall have full Power to prosecute or defend any such Suit or Action (as shall be depending at the Death of the Testator or Intestate) from Court to Court until definitive Judgment : And the Justices of the Superiour Court before whom such Cases are triable, are hereby directed and impower'd to

1 G. 2. ca. 9.
Executors and
Administrators
impower'd to pro-
secute and de-
fend Actions
commenced
before their
being in such
a Capacity.
hear

Court's Power
to grant Im-
parlances, &c.

Judgment to
be made up
against the
Estate of the
Deceased, &c.

hear and determine all such Cases, proceed to Judgment and award Execution accordingly : And when it shall so happen that either the Appellant or the Appellee be taken away by Death, sooner than the Time of the Sitting of the Court appeal'd to, so that the Executor or Administrator of the Deceased hath not suitable Time to prepare for managing the Cause depending, or to become duly qualified to prosecute or defend the same : In such Case it shall and may be lawful for the Justices before whom the Cause is to be heard and tried, to suspend the hearing and trying of every such Cause until the next Term after.

And be it further enacted by the Authority aforesaid, That if by the Verdict of a Jury, Default or Neglect of prosecuting such Appeal or otherwise, Judgment pass against the Executor or Administrator of any Person deceased, the Justices of the Superiour or Inferiour Courts respectively, are hereby authorized and directed to make up Judgment against the Estate of the Deceased in their Hands, and under the Administration of the Executor or Administrator, as it should have been in Case the Suit had been originally commenced by or against such Executor or Administrator in that Capacity : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VII.

An Act in further Addition to, and for rendring more effectual an Act made in the tenth Year of the Reign of King *William* the third, Intituled, *An Act for preventing of Trespases.*

10 W. ca. 5.
12 G. ca. 5.

Preamble.

WHEREAS in the Act made in the twelfth Year of his present Majesty's Reign, Intituled An Act in Addition to, and for rendring more effectual an Act made in the tenth Year of the Reign of King *William* the third, Intituled *An Act for preventing of Trespases* ; good Provision is made to prevent cutting, felling or destroying of Trees, Timber, Wood, Under-wood, breaking Fences, digging Oar, Clay, &c. But no Provision is therein made against cutting and destroying of Grass and Sedge growing on the common Lands of any Town or Proprietors, or destroying and carrying away any Hay lying on the same, nor against taking away from any Wharff, or publick landing Place any Posts, Rails, Plank, Boards, Slit-work, Cooper-Stuff, Shingles, Wood or Timber ;

Trespases in
cutting or
carrying away
Grass, Hay or
Corn.

Or Posts, Rails
and other
Lumber or
Goods.

Penalty.

Proviso that
Prosecution
for Theft be
not hereof
bar'd.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any Person or Persons after the Publication of this Act, shall presume to cut or carry away any Sedge, Grass, Hay or Corn, standing, lying or being on any Land, belonging to any Town, Proprietors, or particular Persons, where he or they so cutting or carrying away have no Right ; or shall take away from any Wharff or common Landing Place, any Posts, Rails, Plank, Boards, Slit-work, Cooper-Stuff, Shingles, Wood or Timber, or any other Lumber or Goods, which he or they have no Right to take, shall for every such Trespases forfeit and pay the Party or Parties so trespass'd upon treble Damages ; to be sued for and recovered in any Court proper to try the same, after the same Manner of Conviction, and by the same Rules and Methods as is directed in and by the aforesaid additional Act for preventing Trespases ; unless such Person or Persons have first obtained Leave or Licence from the major Part of such Town or Proprietors at a Meeting orderly warn'd and assembled for that Purpose, or from any particular Person or Persons who are in Possession of such Lands or Wharffs.

Provided nevertheless, That this Act or any Clause therein shall not be understood or construed so as to bar or hinder any Town, Proprietors or particular Persons from prosecuting any other Person or Persons for Theft, who shall carry away

away any Hay or Corn sever'd from the Freehold, or such as shall take from any Wharff or common landing Place, any Posts, Rails, Plank, Boards, Slit-Work, Cooper-Stuff, Shingles, Wood or Timber, or other Lumber or Goods, which he or they have no Right to take; but that in such Case any Town Proprietors or particular Persons may proceed in such Manner as if this Law had not been made: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VIII.

An Act to enable Proprietors of Common and Undivided Lands to make Orders and annex Penalties thereon, for the better regulating and managing their Proprieties. 12 A. ca. 2.

WHEREAS it so happens that in some Towns or Proprieties within this Province, there are some parcels of Upland, Sedge-Ground or Meadow-Ground, which lie under such Circumstances as render a Division of the same very difficult and disadvantageous; which notwithstanding would be of considerable Use and Benefit to the Owners, if the same could be improved under due Regulations: But there being no Law of this Province to enable Proprietors to make Orders and annex Penalties to prevent Disorder, evil-minded Persons take such Measure as sometimes render the regular and orderly Improvement of such Lands very difficult, if not impossible: Preamble.

We it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That Proprietors of common and undivided Lands at a Meeting warned as the Law directs and assembled, shall and may have Power by a major Vote of the Persons then assembled, (said Votes to be collected according to each ones Interest) to make and pass such Orders for fencing, improving and timing the Improvement of such undivided Lands or Meadows as by them shall be thought proper and convenient, and to annex Penalties on the Breach and Non-observance of such Orders, provided such Penalty doth not exceed fifteen Shillings for one Offence; provided also that such Order so made be allowed and approved of by the Court of General Sessions of the Peace for the County where the Land lies, and is not repugnant to the general Laws of the Province, that then such Order or Orders shall have such Force and Effect, as that such Proprietors thereupon by their Treasurer, Agent or Agents may recover the Penalty thereto annexed against the Breakers or Non-observers thereof, in any Court proper to try the same; such Penalty to be disposed of as the Proprietors shall order or direct: Any Law, Usage or Custom to the contrary notwithstanding. Proprietors of Common Lands im-power'd to make Orders and annex Penalties.

C H A P. IX.

An Act for the rendring more effectual the Act Intituled, *An Act to prevent Nuisances by Hedges, Weares, and other Incumbrances, obstructing the Passage of Fish in Rivers.* 8 A. ca. 3.

WHEREAS in and by an Act made and pass'd in the eighth Year of the Reign of Queen Anne, Intituled, An Act to prevent Nuisances by Hedges, Weares, and other Incumbrances, obstructing the Passage of Fish in Rivers; all such Incumbrances in the Rivers are disallowed and forbidden without the Approbation of the Courts of General Sessions of the Peace in the respective Counties, and ordered to be demolished and pulled down, but no Penalty is provided in the said Act: Preamble.

Wherefore, for the more effectual preventing such Nuisances;

H h

15e

Strip and Waste upon Lands undivided.

Penalty for
making
Weares, &c.
to obstruct
the Passage of
Fish.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That whosoever after the Publication of this Act, shall set up, erect or make any Weares, Hedges, Fish Garths, Stakes, Kiddles, or other Incumbrances whatsoever on or a cross any River for straitning, obstructing or stopping the natural, usual or common Passage of the Fish, in the Spring, or other proper Seasons of the Year, without the Approbation of the Court of General Sessions of the Peace, shall for every such Offence forfeit and pay the Sum of *ten Pounds*, to be sued for and recovered by Plaint, Bill, or Information, in any of His Majesty's Courts of Record within the County, where the Offence is committed; one Half thereof to be to him that shall inform and sue for the same, and the other Half to the Poor of the Town or Towns, where such Incumbrances have been made or set up.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1727. And continued by several Adjournments unto Wednesday the fourth Day of *October* following.

C H A P. I.

An Act to prevent Coparceners, Joint Tenants and Tenants in Common, from committing Strip and Waste upon the Lands by them held in Common and Undivided.

Preamble.

WHEREAS it often happens that Persons having an Interest or Share in Lots of Land not subdivided to and among the interested, do privately and without the Knowledge of the rest, enter into and upon the same, cut down or carry away the Trees for Timber and other valuable Trees, or Wood, or make other Strip and Waste thereon, whereby the rest of the Partners or Interested are strip'd of their just Rights and Shares thereof:

For Prevention of the same for the future :

Coparceners,
joint Tenants
and Tenants
in common,
not to make
Strip &c.
without giving
Notice, &c.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, no Person or Persons whatsoever, having a Right or Interest in any Lot or Lots of Land not subdivided, but lying in Common, shall or may fell, cut down, destroy or carry away any Trees for Timber, or other Trees, Timber, Wood or Under-wood whatsoever, standing, growing or lying on such Lands, or make any other Strip or Waste whatsoever, without first giving Notice in writing under his or their Hands, unto all the Persons interested therein, or to his or their Agents, Factors or Attornies, forty Days before Hand, setting forth, that he or they have Occasion for, and shall enter upon and improve such Lot or Lots of Land not subdivided as aforesaid, under the like Penalties and Forfeitures as are provided by an Act Intituled, *An Act in Addition to and for rendring more effectual an Act made in the tenth Year of the Reign of King William the third, Intituled An Act for preventing of Trespasses*, to be recovered before any one of His Majesty's Justices of the Peace, or in any of His Majesty's Courts of Record within the County where such Offence shall be committed, (as the Value of the Damage may be) by Action, Bill, Plaint or Information, to be brought and prosecuted by any one or more of the Persons interested, in

Penalty.

10 W. ca. 5.

the

High Ways.

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the Name and Behalf of the rest (who are hereby authorized and impower'd so to do) one Moiety of the aforesaid Penalties and Forfeitures to be to and for the Use of such Person or Persons, who shall inform and sue for the same, and the other Moiety to and for the Use and Benefit of the rest of the Proprietors or Persons interested as aforesaid.

And whereas upon Suits brought for the Partition of Lands, Tenements or Hereditaments held in Common as aforesaid, the Party or Parties against whom such Suits are brought (who oftentimes have but a small Interest therein) before a final Judgment can be obtained, and a Division made of the same according to Law, do frequently cut down, destroy and carry away considerable Quantities of the Wood, Timber and Trees growing on such Land, and do otherwise hurt and damnify the same Lands, Tenements and Hereditaments, to the great Prejudice of the rest of the Owners thereof (especially where they are Wood Lands) who are without any Remedy at the Common Law :

Be it therefore enacted by the Authority aforesaid, That when a Writ shall be brought and served at the Suit of any one or more Persons interested in any Lot or Lots of Land, Tenements or Hereditaments held in common or undivided for a Division and Partition of the same, no Person or Persons whatsoever having a Right to or Interest in any such Lands, Tenements or Hereditaments, or holding any Part or Share of the same in common as aforesaid (whilst such Suit is depending) shall or may fell, cut down, destroy or carry away any Trees, Timber, Wood or Underwood whatsoever, standing, growing or lying on such Lands, or shall otherwise hurt or damnify any such Lands, Tenements or Hereditaments, until Partition can be made of the same according to Law, on Pain that every Person or Persons so offending shall incur the like Forfeitures and Penalties provided in the aforesaid Act, Intituled, *An Act in Addition to and for rendring more effectual an Act made in the tenth Year of the Reign of King William the third, Intituled An Act for preventing of Trespasses*; to be recovered by the Person or Persons informing or suing for the same, in Manner as aforesaid, to and for such Uses as are before mention'd and declared.

Provided always, That the Person or Persons bringing forward such Writ shall prosecute the same to Effect, and after obtaining Judgment, shall cause Execution to be served for Partition of such Estate, as soon as the Law will admit thereof, and it may conveniently be done.

And be it further enacted by the Authority aforesaid, That in all Offences against this Act, the Offender or Offenders shall be liable to a Conviction, in the same Manner as is already provided in the Act before mentioned.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-second Day of *November*, 1727.

C H A P. II.

An Act in Addition to an Act Intituled, *An Act for High Ways*. 5 W. & M. ca. 8.

WHEREAS in and by an Act made and pass'd in the fifth Year of the Reign of King William and Queen Mary, Intituled, *An Act for High Ways*, Provision is made to impower the Select-Men of each Town respectively, either by themselves or others, to lay out particular or private Ways for such Town only, as may be thought necessary: But no Provision is made what Methods shall be taken in order to bring them to Record; so that there seems to be apparent Danger of such Ways being laid out and committed to Record without the Knowledge of the Town or Towns respectively; which hath and may prove of very ill Consequence:

H h 2

For

Trespafs and Ejectment.

For Remedy whereof :

Notice to be
given the
Towns of
private Ways
in March
Meeting.

All private
Ways to be
allowed by
the Town.

Private Ways
may be al-
tered by the
Town.

Saving a Li-
berty of Ap-
peal.

Application
to be made
within a Year.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as the Select-Men, or any by their Order for the future, shall lay out any private or particular Way or Ways in and for any Town or Towns within this Province, such Select-Men shall make Report to the Town in which such Ways are laid out, at their annual Town Meeting in *March*; Notice of which Report shall be inserted in the Warrant for calling such Meeting, and no such Way or Ways shall be esteem'd establish'd private Ways for such Town, nor committed to Record, unless such Town at a Town Meeting warned as aforesaid, shall by a major Vote allow and approve thereof :

And be it further enacted by the Authority aforesaid, That it shall be in the Power of any Town or Towns within this Province at a legal Town Meeting, to alter or discontinue any particular or private Way or Ways within their respective Towns, which have been heretofore laid out and improved as such, when it shall appear to such Town or Towns that they are unnecessary for the Common Good : And all such particular or private Ways after so ordered by the major Vote of such Town or Towns respectively, to be discontinued or alter'd, shall no longer be esteem'd as particular or private Ways for such Town or Towns.

Saving always, To any Person or Persons who shall be aggrieved or damnified by the altering, discontinuing or laying out of any such Way or Ways as aforesaid, a Liberty of applying for Remedy to the Justices of the General Sessions of the Peace within the County where such Alterations or layings out are made; who are hereby empowered and directed to inquire into, and determine the Matter by a Jury thereunto appointed, as well with Respect to the Necessity and Convenience by such Discontinuance, laying out or Alteration as aforesaid, as to the Damage that may happen or accrue to any particular Person or Persons thereby, and thereupon to award Damages to the Party or Parties injured, against such Town; unless it appears that such particular Person or Persons have no just Cause of Complaint; that then such particular Person or Persons shall pay all such Cost and Charge as shall or may arise by any such Application to the Sessions.

Provided, Such Application be made to such Justices at their General Sessions of the Peace, within twelve Months after such Ways are altered or discontinued as aforesaid, and not otherwise : Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. III.

10 W. ca. 5.

An Act for the more safe and easy Prosecuting Writs of Trespafs and Ejectment.

Preamble.

WHEREAS sometimes the Defendants in Actions of Trespafs and Ejectment are arrested, and held to great and excessive Bail, where no just Cause can be for it; and sometimes the Plaintiffs have their Writs abated, and the Tryal of their Right unreasonably delayed, under Pretence that all the Tenants are not sued :

For Prevention whereof :

In Writs of
Trespafs and
Ejectment
only the De-
fendants Bond
to be required.

Defendants to
answer for no
more than
they are in
Possession.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That whensoever any Person shall be arrested upon a Writ of Trespafs and Ejectment, the Defendants own Bond and no other, shall be required for his Appearance to answer the same.

And whenever any Person or Persons shall be sued in Ejectment for any Lands, Tenements or Hereditaments, they shall be holden to answer for so much or such Part of the Premises demanded as they then hold, or are in Possession of;

Trespases. Grand Jurors.

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of; which they shall distinguish and set forth by their Plea, and disclaim in the rest: And if any of them disclaims in the whole, and the Plaintiff cannot prove his the Defendant's Possession of the Premises, or any Part thereof, he shall recover his Costs: Any Law, Usage or Custom to the contrary hereof in any wise notwithstanding.

C H A P. IV.

An Act in further Addition to the several Acts relating to *10 W. ca. 5.*
Trespases.

WHEREAS the several Acts or Laws already made for the preventing of Trespases have been found ineffectual for that Purpose in some Cases, *Preamble.*
so that a further Provision is necessary to be made:

Be it therefore enacted by the Lieutenant Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That no Person or Persons do or shall presume to take up, break down or damnify any Dam or Dams, made use of for the inclosing of Water improved for the Benefit of any Mill or Mills, flowing or drowning of Swamp or other Lands or Meadows, or let out the Water so inclosed, or obstruct, hinder or stop the natural and usual Course of any Stream of Water running from any Pond used and improved for the supplying any Mill or Mills with Water; either by stopping or shutting down the Sluce of such Dam, or by wilfully erecting, setting up or making any Dam, or other Incumbrance across any Stream or Run of Water (having no Right or Privilege so to do) belonging to any other Person or Persons, and where he or they have a lawful Right between his or their Pond and Mill, or shall cut down, burn, damnify, carry away or destroy any Mill or Frame of a Mill, Floom, or any of the Timber, Boards or Implements used in and about the same, or shall pull down, cut, destroy, or any Ways damnify any Edifice, Building or House not inhabited, Frame or Timber of any such Building, Cellar or Well, being the Property, or in the Possession of any other Person or Persons; on pain that every Person or Persons offending against this Act, or any Part thereof, or that shall be aiding or assisting therein, *Penalty.*
shall for every such Offence or Trespas forfeit and pay to the Party or Parties so injured or trespassed upon, treble the Value of all such Damages as such Party or Parties shall make appear to the Justice or Court and Jury, before whom the Trial shall be, that he or they have sustained by any Breach of this Act, to be sued for and recovered in any Court proper to try the same, after the same Manner of Conviction, and by the same Rules and Methods as is directed and provided in and by an Act Intituled, *Manner of Conviction.*
An Act in addition to and for rendring more effectual an Act made in the tenth Year of the Reign of King William the third, Intituled, An Act for preventing of Trespases, made in the twelfth Year of the Reign of his late Majesty King George: Any Law, Usage or Custom to the contrary notwithstanding. *12 G. ca. 5.*

C H A P. V.

An Act in Addition to an Act Intituled, *An Act for enlarging the Fees of Grand Jurors.*

WHEREAS the stated Allowance for a Grand Juror according to an Act made and passed in the sixth Year of his late Majesty King George the first, Intituled, *Preamble.*
An Act for enlarging the Fees of Grand Jurors, is but three Shillings per Diem, which is so small that the same will not defrey his necessary Charges and Expences in travelling to, and Attendance at Court:

Allowance
for Grand
Jurors.
3 G. cā. 6.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from hence forward the Allowance of a Grand Juror during his Attendance on the Court, and also for his necessary travel to and from the same, be *one Shilling* per Diem, over and above the aforesaid Allowance, accounting five Miles for half a Day's travel, and ten Miles for a whole Day, and so *pro rato*, but no Allowance to be made to any Person for less than half a Day's travel.

CHAP. VI.

3 G. cā. 1.

An Act in further Addition to an Act Intituled, *An Act in Addition to the Act for the better Observation and keeping the Lord's Day*, made and passed at a Great and General Court or Assembly held at *Boston* the seventh Day of *November* 1716. In the third Year of the Reign of his late Majesty King *George* the first.

Preamble.

Notwithstanding the many good and wholesome Laws made to prevent the Prophanation of the Lord's Day, some wicked and evil disposed Persons do yet presume to do unnecessary Work, take their Recreation and Sport, and travel on the said Day :

Penalty for
working or
playing on
the Lord's
Day.

For the more effectual perverting such vile and unlawful Practices :

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That whosoever shall for the future, contrary to the said Act do or exercise any Labour, Work or Business of his or their ordinary Calling, or use any Game, Sport, Play or Recreation on the Lords Day, or on any Part thereof, shall forfeit and pay the Sum of *fifteen Shillings*; and upon a second Conviction the Sum of *thirty Shillings*, and give Bond with Sureties for their good Behaviour to the next Court of General Sessions of the Peace in the County where the said Offence is committed : And that all Persons that for the future shall travel contrary to the said Act, shall for the first Offence forfeit and pay the Sum of *thirty Shillings*, and upon a second Conviction the Sum of *three Pounds*, and give Bond with Sureties for the good Behaviour, as aforesaid : And in Case any of the Offenders mentioned in this Act shall be unable or refuse to pay and satisfy their Fines, they shall be adjudged to stand committed in the common Goal of the County, not exceeding the space of five Days, or set in the Cage or Stocks, not exceeding four Hours, according to the Discretion of the Court or Justices before whom such Conviction may be.

Preamble.

And whereas the solemnizing of Funerals on the Lord's Day oft-times occasions great Prophanation thereon, by Servants and Children gathering in the Streets and walking up and down, to and from the Funerals, and is the Means of many Disorders and Irregularities then committed :

For Remedy whereof :

No Funeral
to be solemn-
ized on the
Lord's Day
without Li-
cence.

Be it further enacted by the Authority aforesaid, That from and after the Publication of this Act, no Funeral shall be attended on the Lord's Day or Evening following, except in extraordinary Cases, where the Corps by Reason of the excessive Heat of the Season may prove offensive, if not buried, or for some such like Reason, Liberty be granted therefor by one or more of His Majesty's Justices of the Peace living in such Town where the Funeral is to be performed ; or if there be no Justice in such Town, then by the Select-Men or the major Part of them, who shall certify under their Hands, setting forth the Reason therefor to the several Sextons or Grave Diggers : And whoever shall presume to permit, and direct any Funeral on the Lord's Day without Liberty

Lord's Day.

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Liberty as aforesaid, shall forfeit and pay the Sum of *forty Shillings*, and every Grave Digger or Sexton that shall by himself or Order be any Ways assisting at any Funeral, contrary to this Act, shall forfeit and pay the Sum of *twenty Shillings*. Penalty.

And whereas the Laws now in Force for the Observation of the Lord's Day do not empower the Justices, Constables, Tything-Men, or other Officers to inspect the Houses of Retailers of strong Drink, as it doth the Taverners, Innholders or common Victuallers on the Lord's Day, and the Evening preceeding and following the said Day; by Reason whereof great Resort at such Times is made to such Houses of Retailers of strong Drink: Preamble.

Wherefore, for the better finding out and discovering Persons that shall be drinking or tipling at any Retailers Houses, Out-Houses, Yards or Dependencies thereof:

Be it enacted by the Authority aforesaid, That the Justices of the Peace, Constables, Tything Men, and all other Officers appointed for that Purpose, be and hereby are fully authorized to enter and search the Houses of Retailers in as large full and ample Manner, as they may do the Houses of common Victuallers, Innholders and Taverners, the Evening preceeding the Lord's Day, any Part of the said Day or Evening following. And if any Retailer of strong Drink shall entertain or suffer any of the Inhabitants of the respective Towns, where they dwell, or others not being Strangers or Lodgers in such Houses, to abide in their Houses, Yards, Out-Houses or Dependencies, drinking or idly spending their Time on Saturday Night after the Sun is set, on the Lord's Day, or the Evening following, shall forfeit and pay the Sum of *five Shillings* for every Person found in such Houses, contrary to this Act; and that the like Sum of *five Shillings* shall be paid by every Person so found and entertained in such House or Houses contrary to this Act. Officers im-
powred to
inspect Re-
tailers Houses
on the Lord's
Day, &c.

Penalty for
Retailers en-
tertaining
Persons on
the Lord's
Day, &c.

And whereas there are different Apprehensions touching the Beginning of the Sabbath or Lord's Day:

In order therefore for the more quiet and orderly Observation of the Lord's Day, and to prevent any Indecencies and Disorders:

Be it further enacted, That all Persons be and hereby are strictly forbidden swimming in the Water, unnecessary walking or riding in the Streets, Lanes or high Ways or common Field of the Town of *Boston*, and all other Towns or Places within this Province, keeping open their Shops or Ware-Houses, or following their secular Occasions the Evening preceeding the Lord's Day or Evening following, on Penalty, that every Person transgressing in any of the afore-mentioned Particulars, shall for the first Offence forfeit and pay the Sum of *ten Shillings*, and for the second Conviction the Sum of *twenty Shillings*, and give Bond with Sureties for the good Behaviour, as in this Act is already provided; and in Case any of the Offenders shall be unable or unwilling to pay such Fines, then to be punished as in this Act is already provided. All Fines and Forfeitures arising by this Act to be disposed of, one Half thereof for the Benefit and Relief of the Poor of such Town where the Offence is committed, the other Half to him or them that shall inform and sue for the same. And all his Majesty's Justices, Sheriffs, Grand-Jurors, Tything-Men and Constables, are hereby directed to take due Care that this Law, and the several Parts thereof be observed and kept: And it is further recommended to the Justices of the Court of Assize and General Goal Delivery, and the Justices of the Peace in the several Counties in their General Sessions at the opening of their respective Courts immediately before the Charge is given, to cause this Act to be publicly read in Courts; and that they then give it in special Charge to the Grand-Jury, that they diligently inquire after the Violaters of this Law, and present all Breaches thereof: Any Law, Usage or Custom to the contrary thereof notwithstanding. Penalty for
unnecessary
walking, rid-
ding, keeping
open Shops,
&c. on the
Evening be-
fore and after
the Lord's
Day.

This Act to
be read in
the Courts.

C H A P. VII.

10 W. ca. 7. An Act in Addition to an Act Intituled, *An Act relating to Strays and lost Goods, &c.*

Fee for entering lost Goods, Strays &c.

Such Entries to be sent to the Register of the County.

Register's Fee.

Penalty for asking greater Fees.

Penalty for Town Clerk or Registers Neglect of Duty.

Persons to take up stray Beasts.

Charges to be allow'd without apprizing the Strays.

Proviso.

WHERE it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Fee or Allowance to be paid the Town Clerk for entering any lost Money, Goods or Strays shall be henceforward *one Shilling* over and above the Fee allowed him by an Act made in the tenth Year of King *William the third*, relating to Strays and lost Goods, &c. And such Town Clerk shall be obliged once every two Months to transmit to the Register of Deeds in the County where he lives, an attested Copy under his Hand of all Entries that shall be made with him, of any lost Money, Goods or Strays, and shall pay to the Register *six Pence* for each Copy of an Entry, to be transmitted to him as aforesaid; and the Register shall keep a Book wherein he shall Record all Entries transmitted to him by the Town Clerk as aforesaid, and give out Copies of the same, when desired, taking the Fee of *six Pence* for each Copy, and no more; and for searching his Records *two Pence*, and no more: And if any Town Clerk or Register shall demand and take any greater or other Fees than are before mentioned, for the Matters aforesaid, or any of them, and be thereof convicted before any Court of Record in the County where the Offence shall be committed, he shall be subject and liable to the same Penalties that are enjoined by an Act for regulating Fees, made in the fourth Year of King *William* and Queen *Mary*, Chap. XVIII. for Persons transgressing, as is therein mentioned.

And be it further enacted by the Authority aforesaid, That if any Town Clerk or Register shall neglect or fail of doing their Duties respectively, as by this Act is provided and directed (their respective Fees in this Act mentioned being tender'd to them) he or they shall for every such Neglect forfeit and pay as a Fine a Sum not exceeding *forty Shillings*, one Half thereof to the Use of the Poor of the Town wherein such Town Clerk or Register respectively dwells, and the other Half to him or them that shall inform and sue for the same before any of His Majesty's Justices of the Peace in the same County.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful for any Person or Persons to take up any Horse, Gelding, Mare or other Beast for a Stray, and Account and take Care of them as Strays (the Owner thereof not being known) from the first Day of *November* to the first Day of *March* yearly: And such Person shall be allowed his reasonable Charge about the same, altho' he does not proceed to procure an Apprizement thereof (as by Law is provided) for the space of two Months next after the finding and taking up such stray Beast; provided the Finder and taker up of such stray Beast do attend the Directions of the Law in all other Respects relating to Strays, and do not ride or otherwise improve such stray Beast, until the same be appriz'd in Manner as by Law is already directed: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. VIII.

An Act in Addition to an Act Intituled *An Act to prevent Incestuous and Clandestine Marriages.*

Preamble.

WHEREAS in and by an Act made and passed in the seventh Year of King *William the third*, Intituled, *An Act to prevent incestuous and clandestine Marriages; It is (among other Things) Enacted,* " That no Justice of the Peace or Minister shall presume to join any Persons in Marriage without Certificate produced under the Hand of the Clerk of the several Towns

Executors, &c. to defend any Suit.

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" Towns where the Parties respectively dwell, that the Names and Intention of
 " the Parties have been enter'd with him fifteen Days before Hand, and that due
 " Publication of such their Intention has been made in Manner as by Law is
 " directed, &c." *But sometimes it so happens, that Persons who purpose Mar-* 7 W. ca. 6:
riage live or reside in Towns or Places where there are no Town Clerks :

Be it therefore enacted by the Lieutenant Governour, Council and
 Representatives in General Court assembled, and by the Authority of
 the same, That in every such Town or Place where there is or shall be no Town
 Clerk, when any of the Inhabitants shall desire Marriage, they shall produce a
 Certificate from the Clerk of the Town next adjoining, that the Names and In-
 tentions of the said Persons have been entred with him fifteen Days before
 Hand, and that due Publication of such their Intention or Purpose of Marriage
 hath been made in the Town where said Town Clerk dwells, That then and
 in such Case it shall and may be lawful for any Justice of the Peace, or ordain'd
 Minister, within their respective Limits, to join any such Persons in Marriage :
 And such Town Clerk is hereby directed to set up such Notifications, and give
 such Certificates, and shall be and hereby is in all Respects subjected to the same
 Pains and Penalties upon his Neglect that any other Town Clerk is by Law sub-
 jected to, for neglecting his Duty in observing the Laws relating to Marriage :
 Any Law, Usage or Custom to the contrary notwithstanding.

Where there
 is no Town
 Clerk, the
 Clerk of the
 next Town
 to enter
 Marriages.

Penalty.

C H A P. IX.

An Act in Addition to an Act Intituled *An Act to enable*
Executors and Administrators to prosecute and defend any
Suits that are depending or hereafter shall depend upon 13 G. ca. 6.
Appeal, wherein the Testator or Intestate was or shall be
Appellant or Appellee.

FORASMUCH as in and by an Act made and pass'd in the thirteenth
 Year of His late Majesty King George the first, Intituled An Act to ena- Preamble:
 ble Executors and Administrators to prosecute or defend any Suits that are depend-
 ing or hereafter shall depend upon Appeal, wherein the Testator or Intestate was
 or shall be Appellant or Appellee ; *no Provision is made but only for the Relief*
of Executors or Administrators in such Suits as are depending upon Appeal ;
which hath been found insufficient, for that oftentimes upon the Continuance of
Actions as well in the Inferiour Court of Common Pleas as in the Superiour Court
of Judicature, the Plaintiff, Complainant or Informer, or the Defendant, is taken
away by Death, pending such Action or Suit, before a final Judgment can be
obtained, by Reason whereof sundry Inconveniencies have happened :

Be it therefore enacted by the Lieutenant Governour, Council and
 Representatives in General Court assembled, and by the Authority of the
 same, That when any Action or Suit is or shall be depending either in the
 Inferiour Court of Common Pleas, or in the Superiour Court of Judicature in
 any of the Counties in this Province, and it so happens that either Party be taken
 away by Death before a final Judgment, the Executor or Executors, Admini-
 strator or Administrators of such deceased Party who was Plaintiff, Complainant,
 Informer or Defendant, shall have full Power to prosecute or defend any such
 Suit or Action as shall be depending at the Death of the Testator or Intestate,
 from Court to Court, until definitive Judgment or Sentence ; and the Defendants
 or Appellees are hereby obliged to answer to such Actions accordingly : And the
 Justices as well of the Inferiour Court of Common Pleas as of the Superiour
 Court of Judicature before whom such Cases are triable and depending, are hereby
 impowered and directed to observe the same Method of Proceeding in hearing,
 trying

Executors and
 Administra-
 tors impow-
 ered to prose-
 cute or de-
 fend in Acti-
 ons depend-
 ing, &c.

trying and determining such Cases, and of entring up Judgment, and awarding Execution thereupon, as in and by the aforementioned Act is directed in Cases depending upon Appeal.

Attachments
not to be
voided by the
Death of the
Person.

And be it further enacted by the Authority aforesaid, That when any Goods or Estate shall be attached or Bail given upon any Writ or Process that shall be depending as aforesaid, the same shall not be released or discharged by Means of the Death of either Party, but be held good to Respond the Judgment to be given on such Writ or Process in the same Manner as by Law they would have been if such deceased Party had been living: Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. X.

G. ca. 3.

An Act in Addition to an Act, Intituled *An Act in further addition to an Act, Intituled An Act for Regulating Fences, Cattle, &c.*

Preamble.

WHEREAS in and by the additional Act for Regulating Fences, Cattle, &c. made and pass'd in the fourth Year of the Reign of his late Majesty King George the first; Provision is made for the proportioning of each Proprietors Part of Fence in General Fields; but no Provision is made for defraying the Charge of dividing and setting off the same, nor for making or maintaining such Parts of such Fence, as may be unfit and injurious to be set off to any particular Proprietor or Proprietors:

Charge of
setting off
and making
Fence in
common
Fields to be
proportioned
to the Pro-
prietors.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That for the future the Charge arising by dividing and setting off the several Parts of Fence in the common Fields to and among the Proprietors of Lands inclosed and fenced in one general Field, and the Charge of making and maintaining of such Fence as cannot justly be set off to any particular Proprietor or Proprietors, as his or their Part, shall be born by the several Proprietors thereof in Proportion to their respective Interests in said Field.

Proprietors to
choose Hay-
wards to be
under Oath.

And be it further enacted by the Authority aforesaid, That it shall be in the Power of the said Proprietors, or a major Part of them, (the Vote to be collected according to the interested present) at a Meeting of such Proprietors legally warned for that Purpose, to choose Haywards or Field-Drivers, who are to be under Oath, and to have the same Powers as if they were chosen by a Town, and also to choose Assessors to assess the several Proprietors for the Ends aforesaid, in proportion to each one's Interest: And in Case of Refusal of any Proprietor to pay the Sum assessed upon him, that then, upon Application made, a Warrant of Distress shall be granted by any Justice of the Peace in the County where such Land lies, directed to the Constable of the Town where such Proprietor lives, requiring him to levy and collect of the said Proprietor or Proprietors, his or their Proportion of the Sum assess'd upon his Goods or Chattels, and for want thereof on his Person.

Assessors to
be chosen

Warrant of
Distress to be
issued.

Persons ag-
grieved to be
relieved at the
General Sessi-
ons of the
Peace.

Provided nevertheless, If any Proprietor or Proprietors so assess'd shall think himself aggrieved, he shall apply to the Assessors, and if they shall refuse to relieve him, he shall or may have Liberty to make Application to the Justices of the next Court of General Sessions of the Peace for the County where the Land lies; and the Difference shall be heard and determined by the said Court, whose Judgment or Sentence thereon shall be final: Any Law, Usage or Custom to the contrary notwithstanding.

Proviso.

Provided always, That nothing contained in this Act shall prevent or hinder the Proprietors of any such common Fields already fenced from making and maintaining their Fences according to the Rules and Orders formerly agreed on by them at a Meeting legally warned.

Superiour Court at Barnstable.

C H A P. XI.

An Act for establishing a Superiour Court of Judicature, Court of Assize, and General Goal Delivery at *Barnstable*, for the County of *Barnstable* and *Dukes-County*.

WHEREAS the Inhabitants of the several Towns within the said Counties of *Barnstable* and *Dukes-County*, have complained of the great Charge which the Jurors, Witnesses, and Parties concerned are at yearly, in travelling to and attending at His Majesty's Superiour Court of Judicature, Court of Assize and General Goal Delivery appointed by Law to be holden annually for the Counties of *Plymouth*, *Barnstable* and *Dukes-County* at the Town of *Plymouth*, on the last Tuesday of April; which Town is near One Hundred Miles distant from some of the Towns in the said Counties of *Barnstable* and *Dukes-County*; and the Representatives of several of the Towns within the said two Counties, having petitioned this Court, that there may be a Superiour Court of Judicature, Court of Assize and General Goal Delivery held at *Barnstable* yearly, for the said Counties of *Barnstable* and *Dukes-County* only :

Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That there shall be, and hereby is established a Superiour Court of Judicature, Court of Assize and General Goal Delivery to be held and kept annually at *Barnstable* aforesaid, for the Counties of *Barnstable* and *Dukes-County* on the Tuesday in the Week immediately preceeding the last Tuesday of April yearly, the Time by Law appointed for holding the Superiour Court at *Plymouth* aforesaid.

Superiour Court of Judicature, Court of Assize, &c. to be kept at *Barnstable*.

Time of the Court's sitting.

And the Justices of the said Superiour Court of Judicature, Court of Assize and General Goal Delivery, shall have, hold, use, enjoy, and exercise at *Barnstable* aforesaid, all and singular the Powers which are by Law already given and granted unto them within any other Counties of the Province, where a Superiour Court of Judicature, and Court of Assize, &c. is already established.

And that all Appeals from the Judgment or Sentence of any of the Courts of General Sessions of the Peace, or Inferiour Courts of Common Pleas within the said Counties of *Barnstable* and *Dukes-County*; Reviews, Recognizances, Warrants, and all other Procefs already issued or to be issued, brought or to be brought, taken or filed, which were to be heard and tried at the next Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be holden at *Plymouth*, for the said Counties of *Barnstable* and *Dukes-County*, on the last Tuesday of April next, shall not fail, or be discontinued, but be obligatory, continued over, tried, held good and valid to all Intents and Purposes in the Law, to and at the said Superiour Court of Judicature, Court of Assize and General Goal Delivery respectively to be held at *Barnstable*, for the said Counties of *Barnstable* and *Dukes-County* as aforesaid.

All Procefs relating to the Counties of *Barnstable* and *Dukes-County* to be tried at said Courts.

And in convenient Time before the said Court's Sitting, the Clerk of the said Court shall issue out Warrants, directed to the Constables of the several Towns within the said Counties of *Barnstable* and *Dukes-County*, requiring such Constables to assemble the Freeholders and other Inhabitants of their respective Towns, qualified as in His Majesty's Royal CHARTER is directed, to elect and chuse so many good and lawful Men within each Town or District thereof, as the Warrant shall direct, to serve as Jurors at the said Court, who shall attend the first Day of the said Court's Sitting: And the Constables shall summon the Persons so chosen to attend accordingly, at the Time and Place therein appointed, and make timely Return of their Warrants, according to the Directions thereof, under the same Penalties of the Law provided in such Cases.

Clerk of the Court to issue Warrants for choosing Jurors.

Causeless Arrests, &c.

Superiour
Court at Ply-
mouth to be
for that
County only.

And be it further enacted by the Authority aforesaid, That for the future, the Superiour Court of Judicature, Court of Assize and General Goal Delivery shall be held at *Plimouth* for the County of *Plimouth* only, on the last Tuesday of *April* annually ; and that the Clerk of the said Court, do not in making out Writs of *Venire Facias* for the Choice of Petit Jurors for the said County of *Plimouth*, oblige them to give their Attendance until the second Day of the said Court's Sitting.

Inferiour
Courts, &c.
at *Barnstable*.

And be it further enacted, That for the future the Times for holding the Court of General Sessions of the Peace and Inferiour Court of Common Pleas within the County of *Barnstable*, shall be on the third Tuesday in *March*.

And all Actions, Pleas and Suits both Civil and Criminal shall be heard and tried at the abovesaid Courts, as fully and absolutely, as if the Times for holding the same had not been altered.

And all Officers and others concerned at the said Courts, are to conform themselves accordingly : Any Law, Usage or Custom to the contrary notwithstanding.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1728.

C H A P. I.

An Act in Addition to, and for rendring more effectual an Act Intituled, *An Act to prevent Causeless Arrests, &c.*

Preamble.

13 A. ca. 1.

WHEREAS in and by an Act made and pass'd in the thirteenth Year of the Reign of the late Queen Anne, Intituled, An Act to prevent causeless Arrests, &c. It is enacted, " That every Person, Principal or Attorney, Executor or Administrator taking out a Writ or Attachment against another, before he receive it out of the Clerk's Office, shall endorse his Sirname on the Back thereof towards the Bottom ; and shall stand chargeable and be liable to answer and pay to the adverse Party his Costs arising by the Arrest, and Charge of Imprisonment (if any be) to be taxed in common Form by the Judges of the Court where the Writ is returnable, in Case of Non-Prosecution, Discontinuance, or that the Plaintiff be Non-suit, or Judgment pass against him ; to be levied on the Principal, the Executor, Administrator or Attorney that endorsed or took out such Writ ; if the Principal be without the Province, or be unable to pay the same.

And whereas it hath so happened when any Company or Number of Persons are joined together in one Suit, there is but one only, or not a Majority of the Plaintiffs that hath endorsed the Writ ; and thereupon such Writ hath abated, because all the Plaintiffs therein named have not endorsed the same, nor their Attorney in their Names and Behalf, which by Experience hath been found to be very prejudicial, especially with Respect to the Commissioners and Trustees of the publick Loan Money, who seldom live together in the same Town, but oftentimes very remote ; so that it is exceeding difficult to get a Writ endorsed by all the Plaintiffs, especially when it so happens they are straitned in Time ; by Means whereof there hath been a Failure of Justice, as well as Loss and Damage not only to the Publick, but to particular Persons, occasioned by the Abatement of their Writs, when the Design of the Law was only to secure the Costs in Case of Non-Prosecution, Discontinuance, &c. as aforesaid :

For

Execution of Justice.

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For Redrefs whereof :

Be it enacted by the Lieutenant Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, when any Writ or Attachment shall be taken out at the Suit of more than one Person, the Endorsement of one of the Plaintiffs (or his Attorney) shall be sufficient in the Law, as well to oblige the Defendant to Answer, as the Endorser to pay the Cost and Charges arising on such Suit, in Case Judgment be for the Defendant or Defendants : Any Law, Usage or Custom to the contrary notwithstanding.

One Person endorsing a Writ, &c. sufficient, in Case.

CHAP. II.

An Act for preventing of Injuries and unnecessary Delays to the Parties who shall hereafter be concerned in Suits at Law ; and for the better and more speedy Execution of Justice.

WHEREAS heretofore Objections have been made by Parties against whom Judgment has been given in the Superiour and Inferiour Courts respectively, to several of the Articles charged in their Bills of Cost, for the Attendance and Travel of Witnesses and otherwise ; which Bills have been frequently allowed long after the Court's rising ; and when the adverse Parties have not been present to make their just and reasonable Objections to such Articles :

Preamble.

For Prevention whereof for the future :

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as any Persons shall obtain Judgment in their Favour at the Inferiour Courts of Common Pleas or Superiour Courts of Judicature, they or their Attorneys respectively shall immediately after the recovery of such Judgment draw up their Bills of Cost, and when they are examined by the Clerks of the said Courts respectively, present them to be taxed by one or more of the Justices of the said Courts, and the adverse Parties, or their Attorneys, attending the Courts, to be notified when the Bill is to be taxed, that so they may make their Objections (if any they have) to any of the Articles charged in such Bills, before the same be allowed. And no Bill of Cost shall be allowed after the Court is adjourned without Day, unless sufficient Reason be given for such Delay to the Satisfaction of one or more of the Justices of the Court who shall be desired to tax such Bill of Cost.

Bills of Costs to be tax'd immediately after Judgment given.

Adverse Party to be notified of it.

Exception.

And whereas it often happens that a great Number of the Judgments entred up at the Inferiour Courts within this Province, are appealed from by the Defendants who fail to prosecute their Appeals to Effect at the Superiour Court appealed to ; and thereupon the Plaintiffs or their Attornies enter their Complaints against the Appellants or Defendants at the said Superiour Courts, but commonly neglect to draw up and file their Complaints, in order to have the Judgments of the Inferiour Court appealed from affirmed, until the last Day of the Sitting of the said Superiour Courts ; by which Method the Complainants (or their Attornies) have the Profit of many Days Attendance, for which they are allowed in their Bills of Cost, and thereby throwing an unreasonable Charge upon the Defendants :

Preamble.

Be it therefore enacted by the Authority aforesaid, That in taxing Bills of Cost after Judgment given upon a Complaint at the Superiour Court, the Complainant shall be allowed but so many Days Attendance as the said Court shall judge reasonable.

Court to allow of the Attendance charged in the Bill.

And

No Person to receive Charges of the Suits, till the Bill is taxed. And to the intent, that no Injustice may be done by an Overcharge to the Party against whom Judgment shall be given, no Person obtaining Judgment shall receive any Thing for Charges of his Suit till such Time as the Bill of Cost be first taxed by one of the Justices of the Court who was present, when the Judgment was given: Any Law, Usage or Custom, to the contrary notwithstanding.

C H A P. III.

An Act in Addition to an Act Intituled, *An Act for providing of Pounds, and to prevent Rescous, and Pound Breach.*

Preamble.

10 W. ca. 4.

WHEREAS in and by an Act made and pass'd in the tenth Year of the Reign of King William the third, Intituled, An Act for providing of Pounds, and to prevent Rescous and Pound Breach; It is among other Things enacted, " That there shall be a sufficient Pound or Pounds made and maintained from Time to Time, in every Town and Precinct within this Province, in such Part or Places thereof as the Select Men shall direct and appoint, &c. But no Penalty is therein set upon any Town or Precinct who shall neglect or refuse to make and maintain such Pounds :

For Redress whereof :

Penalty for not having Pounds.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Town and Precinct within this Province that shall neglect or refuse by the space of three Months from and after the Publication of this Act, to make and maintain a sufficient Pound or Pounds in such Town or Precinct, according to the Direction in the afore-recited Act, shall forfeit and pay the Sum of *ten Pounds*; one Half thereof to such Person or Persons as shall inform and sue for the same, and the other Half to the Poor of the Town so neglecting or refusing; to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record in the County where the Offence shall be committed.

C H A P. IV.

An Act in Addition to and for rendring more effectual an Act Intituled *An Act for the Upholding and Regulating of Mills*, made and passed at a Session of the Great and General Court or Assembly, begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, in the eighth Year of the Reign of the late Queen *Anne*, Annoque Domini, 1709.

Preamble.

8 A. ca. 1.
12 A. ca. 8

WHEREAS great Complaint is made by the Inhabitants of the Towns of *Boston* and *Charlestown*, that they are misused by the Millers in not grinding their Corn seasonably, and oft-times detaining it for a long Time unground, to their great Damage; and also that they are very much defrauded by the Millers in taking an unreasonable Toll :

Millers to be provided with Scales and Weights.

Penalty.

Be it therefore enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Miller within the Towns of *Boston* and *Charlestown*, who shall not be provided with suitable Scales and Weights, sealed as the Law directs, for weighing Corn and Meal in his Mill, within the space of two Months after the Publication hereof, shall forfeit and pay the Sum of *ten Pounds*; the

Duelling.

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one Half to His Majesty for and towards the Support of this Government, and the other Half to him or them that shall inform and sue for the same in any Court of Record in the Counties of *Suffolk* or *Middlesex*.

And be it further enacted, That every Miller in the Towns of *Boston* and *Charlestown*, who shall not be provided with suitable Scales and Weights, sealed as the Law directs for the End aforesaid, and shall continue in the Neglect thereof after the Expiration of the said two Months, shall forfeit and pay the Sum of *five Pounds* for every Month he shall continue in such Neglect, to be recovered and disposed of as is herein before mentioned. And if any Miller in the said Towns of *Boston* or *Charlestown* after the Expiration of the said two Months, do or shall presume to take a greater Quantity of Toll than a sixteenth Part for any Sort of Grain by him ground, and be thereof convicted, he shall forfeit and pay for each Offence the Sum of *five Pounds*, to be recovered and disposed of in Manner as aforesaid. And if any Miller in the said Towns of *Boston* or *Charlestown*, shall refuse to weigh Corn, Grain or Meal brought to or carried from his Mill, when desired, he shall, for every such Refusal, forfeit and pay the Sum of *five Shillings*, to be recovered before any Justice of the Peace within the County of *Suffolk* or *Middlesex*, by him or them that shall inform and sue for the same.

Penalty for continuing unprovided.

Penalty for taking too much Toll.

And for refusing to weigh Corn and Meal.

And be it further enacted, That when any of the Inhabitants of the Towns of *Boston* or *Charlestown*, shall send any Grain to be ground at the Mills there for the Use of their Families, the Miller or Millers shall receive into the Mills all such Grain, and within the space of three Days at least, take Care that the same be ground, on pain of forfeiting the Sum of *ten Shillings*, for every such Neglect, and the Sum of *five Shillings* more for every Day such Grain shall be unground (except in extraordinary Cases the Mill is prevented working) to be recovered before any of His Majesty's Justices of the Peace in the Counties of *Suffolk* or *Middlesex*.

Penalty for keeping Grain unground.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1728. And continued by Prorogation unto Wednesday the twenty-fourth Day of *July* following, and then met.

CHAP. V.

An Act for Repealing an Act, Intituled, *An Act for the punishing and preventing of Duelling*, and for making other Provision instead thereof.

WHEREAS to the great Dishonour of Almighty GOD, in Desfance of the Laws of Nature and Nations, contrary to the Peace of Our Sovereign Lord the KING, and the precious Life of Man, there have been of late within this Province several Duels, Rencounters and Quarrels.:

Preamble.

For preventing and suppressing such Mischiefs for the future:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That whoever from and after the Publication of this Act shall be so hardy and wicked as to fight a Duel, or for private Malice, Displeasure, Fury or Revenge, voluntarily engage in a Rencounter, with Rapier or small Sword, back Sword, Pistol or any other dangerous Weapon, to the hazzard of Life, Maihem, or wounding of the Parties, or the Affray of his Majesty's good Subjects, although Death doth not thereby ensue; or shall by Word, Message, or any other

Punishment for Duels and Rencounters.

Repairing the Harbour of Marblehead.

other Way, challenge an other to fight a Duel, or shall accept a Challenge, although no Duel be fought, or shall any Ways abett, prompt, encourage or seduce any Person to fight a Duel, or to challenge an other to fight; and be by due Course of Law before the Court of Assize and General Goal Delivery in any of the respective Counties within this Province convicted thereof, shall for every such Offence be carried publickly in a Cart to the Gallows; with a Rope about his Neck, and sit on the Gallows for the space of one Hour with a Rope about his Neck, as aforesaid, and then committed to the common Goal of the County, and there remain without Bail or Mainprize, for the space of twelve Months, and at the Expiration thereof shall find Sureties for the Peace and good Behaviour, for and during the space of twelve Months more.

Disposition of
the Body of
any Person
that is kill'd
in a Duel.

And be it further enacted by the Authority aforesaid, That when and so often, as it shall appear by the Coroner's Inquest, that any Person hath been killed in fighting a Duel, the Corps or Body of such Person so slain shall not have a Christian Burial: But the Coroner of the County where the Fact shall be committed, shall be, and hereby is directed and impowred to take effectual Care that the Corps of all Persons so killed be immediately secured, and buried without a Coffin, with a Stake drove through the Body, at or near the usual Place of Execution; provided it be within the space of ten Miles, if otherwise, then in the most publick Place in the Town where the Fact was committed; the Charge thereof to be defrayed out the Estate of the Deceased, (if any to be found) by Warrant of Distress to be awarded by His Majesty's Justices of the Superiour Court of Judicature Court of Assize and General Goal Delivery, upon the Coroner's presenting a Bill of Charge therefor: And if no Estate to be found, then the Charge to be paid by the County: And in Case any Person shall slay or kill any other in Duel or Fight, as aforesaid, and upon Conviction thereof suffer the Pains of Death, as is by Law provided for wilful Murder, the Body of such Person, shall not be allowed Christian Burial, but be buried without a Coffin, with a Stake driven through the Body, at or near the Place of Execution, as aforesaid.

Disposition of
the Body of
any Person
that kills ano-
ther in a Duel.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Salem*, upon Wednesday the twenty-eighth of *May*, 1729. And continued by several Prorogations and Adjournments to *Boston* the nineteenth Day of *November* following.

C H A P. I.

An Act for the speedy and effectual securing and repairing the Harbour of *Marblehead* in the County of *Essex*.

Preamble.

WHEREAS the Preservation and securing the Harbour of *Marblehead* in the County of *Essex*, is of great Importance as well to that Town as to the Trade of this Province: And whereas by the Incroachments of the Sea, great Breaches have happened in the Beach on the South-westerly Side of the said Harbour, and by the continual washing away of great Quantities of said Beach, it is now reduced so low that almost every common Tide gains a Passage over it, insomuch that if the same is not thoroughly secured and well repaired, the Harbour of said Town is in Danger of being destroyed:

For Remedy whereof:

Trustees to be
chosen for re-
pairing *Mar-*
blehead Har-
bour.

Be it enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the said Town of *Marblehead* at their next Town Meeting legally called shall

Repairing the Harbour of Marblehead.

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shall be and hereby is impowred to chuse five skilful and able Persons as Trustees for ordering, directing securing and repairing the said Harbour, and for the future defending and preserving the said Beach from the Incroachments and Washings of the Sea, as aforesaid :

And for the effectual enabling them so to do :

Be it further enacted by the Authority aforesaid, That they shall be and hereby are impowred to receive the Sum of *Five Hundred Pounds* out of the Province Treasury : And the Treasurer is hereby ordered and directed to pay the same accordingly by Warrant from the Governour or Commander in Chief, for the Time being, with the Advice and Consent of the Council : which Sum hereby made payable is to be employed in securing and repairing the said Harbour, and for the effectual Preservation of the said Beach and mending the Breaches thereof, as aforesaid, by the said Trustees, or the major Part of them, in such Manner as they shall think most convenient : And that there shall be provided and kept by the said Trustees one or more Book or Books, in which all Monies received by them by Vertue of this Act, and all Payments and Disbursements out of the same, by Order or Direction of the said Trustees, or the major Part of them, under their Hands in writing, shall from Time to Time be fairly set down and entred, expressing the Time when, and the Name of the Person or Persons from, or to, or by whom the same were so received, paid, or disbursed, and for what Use or Purpose such Payment or Disbursement was made : And the said Accompts, together with Copies of all Contracts made by the said Trustees, shall in due and convenient Time after the said Work is completed and finished as aforesaid, be delivered to this Court, that it may be seen that the Money hereby granted is laid out in the best Manner to secure and repair the said Harbour of *Marblehead*, and the other Purposes intended by this Act : And two Thirds of all which Payments and Disbursements duly vouched, (the whole of said Payments and Disbursements not exceeding *Two Thousand Pounds*) to be paid out of the Province Treasury, upon the passing and adjusting said Accompts : The said Sum of *Five Hundred Pounds* in Hand paid, as aforesaid, to be held, deemed and taken as Part or Parcel of the said two Thirds.

£. 500 to be advanced out of the public Treasury.

Books and Accounts to be kept by the Trustees.

Two Thirds of the whole Charge to be paid by the Province, provided.

And whereas some evil-minded Persons carry off Sand, Stones, Gravel, Sea-weed, Rock-weed and Sedge brought up by the Sea off and from the said Beach, to the Damage and Weakening thereof :

Be it therefore enacted by the Authority aforesaid, That no Person or Persons whatsoever shall presume to Cart or carry from any Part of the said Beach any Quantity of Sand, Stones, Gravel, Sedge, Sea or Rock-weed, on the Penalty of *forty Shillings* for every Horse or Cart-Load, or Part of a Cart-Load, to be recovered by the said Trustees, or any one of them, or any other Person or Persons, before any one of His Majesty's Justices of the Peace in the said County, or before any of His Majesty's Court of Record within the same : The Fines to be laid out the one Half in the said Repairs, the other to the Person or Persons that shall inform or sue for the same : And the Offender or Offenders shall be convicted in the same Manner and according to the Rule and Way prescribed in and by an Act made in the twelfth Year of His late Majesty King George, Chap. V. Intituled, *An Act in Addition to and for rendring more effectual an Act made in the tenth Year of the Reign of King William the third*, Intituled, *An Act for preventing of Trespasses*.

Trespassers on the Beach to be prosecuted.

12 G. ca. 5.
10 W. ca. 5.

And be it further enacted by the Authority aforesaid, That from and after the laying out and expending the said Sum to and for the Uses, Intents and Purposes as aforesaid, the said Town of *Marblehead*, at the proper Cost and Charges of the said Town, shall for ever secure, support and keep in good Repair the said Harbour of *Marblehead*, and the Beach on the South-westerly Side thereof, according to the true Purpose, Intent and Meaning of this Act.

Town of Marblehead to keep the Harbour in Repair at their own Charge.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Cambridge* upon Wednesday the twenty-seventh Day of *May*, 1730. And continued by several Prorogations unto Wednesday the ninth Day of *September* following, and continued by Adjournment to *Roxbury* and thence to *Boston*.

C H A P. I.

An Act directing how Rates and Taxes to be granted by the General Assembly, as also County, Town and Precinct Rates shall be assessed and collected.

Preamble.

6 A. ca. 1.
11 G. 2. ca. 1

FORASMUCH as for the Support of the Government of this His Majesty's Province, and for the Safety and Defence thereof, and defraying the contingent Charges arising within the same, it is necessary that a suitable Supply of Money should be from Time to Time granted by the Great and General Court or Assembly of the said Province. To the Intent therefore that there may be due Provision made and established for assessing all such Sum and Sums of Money as shall hereafter be granted by the General Court to be levied upon Polls or Estates within the Province, or upon both Polls and Estates for the Support of the Government thereof, or any other publick Use or Uses, whereto the General Assembly shall think fit to apply such Grant or Grants; as also that there may be like due Provision to enforce the collecting and paying into the Treasury such Sum and Sums of Money: so to be granted as aforesaid, according to the true Intent of the Act or Acts for granting the same:

Assessors to be annually chosen in the Month of March.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That in the Month of *March* annually at the same Time when Town Officers are chosen by the respective Towns within this Province according to the Direction of an Act intituled, *An Act for regulating of Townships, Choice of Town Officers, and setting forth their Power*: there may be elected and chosen by the Freeholders and other Inhabitants of every Town duly qualified to vote in Town Affairs, then present, or the major Part of them, three, five, seven or nine meet Persons, to be Assessors of all such Rates and Taxes as the Great and General Court or Assembly shall by any Act or Acts, to be by the same duly made and passed, order and appoint such Town to pay towards the publick Charges of the Province, within the space of one Year from the Choice of such Assessors; every of which so chosen shall within the space of seven Days next after, be sworn before a Justice of the Peace, or Town Clerk in any Town, where no Justice of the Peace dwells (who are hereby respectively impowred thereto) in Manner following, *That is to say*:

To be Sworn.

Form of Assessors Oath.

YOU A. B. being chosen an Assessor of such Rates or Taxes, as the Great and General Court or Assembly of this Province have or shall order and appoint the Town of C. to pay into the Treasury of the Province during the Space of one Year next ensuing, Do swear, That in assessing or apportioning such Rates or Taxes, you will proceed equally and indifferently according to your best Skill and Judgment, and the Rules to be prescribed in the Act or Acts for granting the same. So help you GOD.

And the Town Clerk or two of the Select-Men of every Town shall forthwith make and give out unto the Constable or Constables of the same, a List of the Names of those that shall be chosen Assessors at any Town Meeting as aforesaid. Which Constable or Constables shall thereupon summon each of the said Assessors to appear at a certain Time and Place within the space of seven Days from the Time of their Election, before a Justice of the Peace, if any dwell

Publick Rates or Taxes.

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dwelling in such Town; or otherwise before the Town-Clerk thereof, to take the Oath above-mention'd. And if any such Assessor shall neglect to appear accordingly; or appearing shall refuse to take the said Oath; he shall forfeit and pay to the Use of the Poor of such Town the Sum of *forty Shillings*; and if in *Boston*, *five Pounds*; to be recovered in Manner and Form, as is by Law provided for recovering of Fines and Forfeitures, for the Use of the Poor.

Penalty on
Assessors
chosen that
shall refuse.

And the Select Men of every such Town where any one or more of the Assessors so chosen shall refuse as aforesaid, shall forthwith after Notice thereof, summon a Meeting of the Freeholders and Inhabitants of such Town, to choose one or more Assessor or Assessors in the Room or Rooms of such so refusing, Which Freeholders and Inhabitants duly qualified to vote, being so assembled, shall accordingly choose so many Assessors as shall be wanting to compleat the Number, which the Town at the Time of their first Choice voted and agreed should be elected for the same.

A new Choice
to be made.

Provided always, That it shall be in the Power of the Court of General Sessions of the Peace, upon reasonable Excuse made unto them by any Assessor or Assessors chosen for any Town or Towns in the County for which such Court is holden and kept, that shall refuse to accept as aforesaid, to abate and remit unto such Assessor or Assessors (if they see Cause) the Forfeiture or Penalty aforesaid.

Court of Ge-
neral Sessions
of the Peace
impowred to
abate or remit
the Penalty.

And be it further enacted by the Authority aforesaid, That if any Town shall not choose Assessors as aforesaid, or if so many of them so chosen as aforesaid shall refuse to accept, as that there shall not be such a Number of them as any Town shall agree to be the Assessors thereof; then and in either of the said Cases, the Select-Men of such Town shall be, and hereby are declared and appointed the Assessors of the same; and every of them shall take the Oath before recited in Manner as aforesaid. And each Assessor attending that Service, shall be allowed and paid out of the Town Treasury *four Shillings per Diem*, for each whole Day, he is necessarily employed thereabout.

Select-Men
or Trustees of
Towns to be
Assessors in
Case.

Assessors Al-
lowance.

Be it further enacted by the Authority aforesaid, That if at any Time there shall be a Default or Neglect in any Town or Precinct, to make Choice of Select-Men or Assessors, the said Default or Neglect being certified and made appear unto the Court of General Sessions of the Peace within the same County; such Town or Precinct shall forfeit and pay the Sum of *twenty Pounds*, for and towards the Support of the Government of this Province; and in such Case, as also where neither the Select-Men nor Assessors chosen by any Town, shall accept thereof, the Justices of the Court of General Sessions of the Peace in the same County, shall and are hereby impowred to nominate and appoint three or more sufficient Freeholders within such County, to be Assessors of the publick Rates or Taxes in any such Town as aforesaid: Which Assessors so to be appointed by the said Court, shall take the Oath before recited; and shall then assess the Estate and Persons of such Town or Precinct, of which they shall be appointed Assessors, their due Proportion to any publick Tax, according to the Rules set down in the Act for raising of the same; together with the aforesaid Forfeiture of *twenty Pounds*, where the Town makes Default; and such additional Sum as shall answer their own reasonable Charges for Time and Expence in the said Service, not exceeding *five Shillings a Man per Diem*; and having assessed the same, shall transmit a Certificate thereof to the Treasurer, with the Names of the Constables or Collectors to whom they shall commit the same to be collected.

Penalty on
Towns that
shall neglect
to choose Se-
lect-Men or
Assessors

Court of Ge-
neral Sessions
of the Peace
to appoint
Assessors, in
Case.

Allowance
to such.

And such Assessors shall be paid their Charges as aforesaid (the same being adjusted and certified by two or more Justices of the Court by whom they were appointed Assessors, under their Hands) out of the publick Treasury, by Warrant from the Governour, with the Advice and Consent of the Council.

To be paid
out of the pub-
lick Treasury.

And be it further enacted by the Authority aforesaid, That all Assessors aforesaid, shall duly attend and observe all such Warrants as during the Time of their Office, they shall receive from the Treasurer and Receiver General of this Province, pursuant to an Act or Acts to be made and passed by the Great and General Court or Assembly of the same; for the assessing and apportioning any

Publick Rates or Taxes.

Penalty on
Assessors that
shall neglect
their Duty.

General Ses-
sions of the
Peace to ap-
point other
meet Persons
in the room
of defective
Assessors.

Persons over-
rated to be
eased.

Town and
County Rates
to be appor-
tioned by the
same Rule as
publick Taxes
granted the
same Year.

Collectors of
publick Taxes
may be cho-
sen at the
same Time
with the As-
sessors.

Province Rate or Tax upon the Inhabitants or Estate within the Town, whereof they are Assessors; on pain that the Assessors of any Town or Precinct failing of their Duty by such Warrant of the Treasurer of them required, shall forfeit and pay the full Sum and Sums in such Warrant mentioned, to be by them assessed upon the Inhabitants or Estate of the Town or Precinct whereof they are Assessors, if the said Sum and Sums be therein made certain; which shall be levied by Distress and Sale of the Estates Real or Personal of such defective Assessors, by Warrant from the Treasurer directed to the Sheriff of the County (or his Under Sheriff or Deputy) in which such Town or Precinct lies; and the Treasurer is hereby authorized and required in such Cases *ex officio*, to issue out his Warrant, requiring the Sheriff or Deputy to levy the said Sum and Sums accordingly: And for want of Estate to take the Bodies of such defective Assessors and to imprison them, until they pay the same; which Warrant, the Sheriff, his Under-Sheriff or Deputy are hereby impowred and required to execute accordingly. And the Court of General Sessions of the Peace in each respective County wherein such defective Assessors dwell, be and hereby are directed and impowred forthwith to appoint other meet Persons to be Assessors of such Rate or Tax, according to the Directions contained in the Treasurer's Warrant issued unto the former Assessors: and the Assessors which shall then be so appointed shall take the Oath and be liable to the same Duty and Penalties as the former Assessors.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall at any Time be aggrieved at the Sum or Sums to be set and apportioned upon him or them by the Assessors of any Town or District or Precinct, and shall demonstrate that he or they are rated more than his or their Proportion with others, according to the Rule given to the said Assessors to the Sum set upon such Town, District or Precinct, by any Act or Acts of the General Assembly; the said Assessors shall ease him or them so aggrieved: And if they shall refuse so to do, such Person or Persons aggrieved complaining unto the next General Sessions of the Peace within that County, and making it appear, that he or they are assessed more than his or their Proportion as aforesaid, shall be heard and relieved by the Justices in the said Sessions, and shall be reimbursed out of the Town or Parish Treasury, so much as the said Justices or Assessors respectively shall see Cause to abate him or them, with the Charges; and the Court of General Sessions of the Peace are impowred upon the Complaint of any Party grieved to require the Assessors to produce the Lists of their Assessment.

And be it further enacted by the Authority aforesaid, That all County, Town, Precinct, District and Parish Rates and Assessments shall be apportioned by the Select-Men or Assessors of the several Towns, Precincts, Districts or Parishes within this Province, upon the Inhabitants and Estates within the same, according to the Rule that shall from Time to Time be prescribed and set in and by the then last Act of the General Assembly which shall have been made and passed for the apportioning and assessing of the publick Taxes granted unto His Majesty, when such County, Town, Precinct, District or Parish Rate or Assessment shall be made or apportioned; and such Select-Men or Assessors shall be under the like Obligation of the Oath administered to the Select-Men or Assessors who apportioned the said publick Tax to proportion such County, Town, Precinct, District and Parish Assessments by the same Rules.

And be it further enacted by the Authority aforesaid, That the Freeholders and Inhabitants of any Town, Precinct, District or Parish, duly qualified to vote in Town Affairs, may if they see Cause, at the Time they chuse Assessors, likewise elect and chuse a meet Person or Persons to be Collector or Collectors of the publick Rates or Taxes that shall be assessed upon such Town, Precinct, District or Parish, and agree upon what Sum shall be allowed and paid out of the respective Treasuries, unto such Collector or Collectors for his or their Service therein: But if such Collector or Collectors so to be chosen shall refuse

Publick Rates or Taxes.

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refuse to accept that Service, or that none such be chosen, then the Constable or Constables of such Town or Parish shall collect and gather such publick Rates and Taxes, and every Collector or Constable shall have a Warrant from the Treasurer and Receiver General, or Select-Men or Assessors impowring him to collect such Rates or Taxes as shall be committed to him to collect, and shall pay in the same according to the Directions in such Warrant: And in Case of any Constable or Collector's Decease before his perfecting the Collection of any publick Assessment committed to him, the Assessors of such Town, Precinct, District or Parish shall impower and appoint at their publick Charge, some other fit Person or Persons to perfect the same Collection, and present his or their Names unto the Treasurer, Select-Men or Assessors, who are hereby authorized and required to enable and impower such Person or Persons to collect the same by granting a Warrant to him or them.

Provision in
Case of Con-
stables or Col-
lectors de-
cease.

And be it further enacted by the Authority aforesaid, That the Treasurer and Receiver General shall send such Warrants as he shall be from Time to Time ordered to issue for the assessing or collecting any publick Rate or Tax inclosed to the Sheriff of each respective County, who is required immediately to disperse and transmit the same unto the Assessors, Constables, or Collectors of the several Towns, Precincts, Districts or Parishes within such County, according to the Directions thereof; and for his Service, Charge and Expence, shall have a reasonable Allowance ordered him by the Justices in the Court of General Sessions of the Peace in the same County, to be paid out of the County Treasury, upon his laying the Accompt thereof before them.

Sheriff to
disperse the
Treasurer's
Warrants.

To be paid
out of the
County Treas-
ury.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall refuse to pay the Sum or Sums whereat they shall be assessed as their Proportion to any publick Rate or Tax in the List committed to any Constable or Collector under the Hands of the Assessors of such Town, Precinct, District or Parish, or the major Part of them upon Demand thereof made by such Constable or Collector, by Virtue of the Warrant to him given; it shall and may be lawful to and for such Constable or Collector, and he is hereby authorized and required in such Case to distrein the Person or Persons so refusing, by his or their Goods or Chattels; and the Distress or Distresses so taken to keep by the space of four Days, at the Cost and Charge of the Owner thereof. And if the Owner do not pay the Sum and Sums of Money so assessed on him within the space of four Days, then the said Distress or Distresses to be forthwith openly sold at an Outcry by the said Officer, for the Payment of the said Money, (Notice of such Sale being posted up in some publick Place in the same Town, twenty four Hours before Hand:) and the Over-plus coming by said Sale (if any be) over and above the Charges of taking and keeping the said Distress or Distresses, to be immediately restored to the Owner. And if any Person or Persons assessed as aforesaid, shall refuse or neglect to pay the Sum or Sums so assessed, by the space of twelve Days after Demand thereof, where no sufficient Distress can or may be found, whereby the same may be levied: In every such Case two or more of the Assessors in such Town, Precinct, District or Parish, are hereby authorized by Warrant under their Hands and Seals, to commit such Person or Persons to the common Goal, there to be kept without Bail or Mainprize until Payment shall be made.

Constable or
Collector im-
powred to
distrein, in
Case, &c.

Distress to be
sold by Out-
cry.

Persons to be
committed,
not having
whereof to
distrein.

And be it further enacted by the Authority aforesaid, That when any Person or Persons shall remove from any Town or Place where he or they lived, or had his or their Residence at the Time of making the Lists of any publick Tax or Assessments, not having before paid the respective Sum or Sums set upon him or them by such Lists; it shall and may be lawful to and for the Constable or Collector to whom any such Tax or Assessment shall be committed with Warrant to collect, and he is hereby authorized and impowred to demand the Sum or Sums assessed upon such Person or Persons, in what Town or Place soever he or they may be found; and upon Refusal or Neglect to pay the same, to distrein the said Person or Persons, by his or their Goods or Chattels as aforesaid; and for want of such Distress to commit the Party to the common Goal, there to remain until Payment be made.

And

Publick Rates or Taxes.

Provision in
Case of Per-
sons being
about to re-
move before
the Time for
Payment of
the second
Part of any
Tax.

And be it further enacted by the Authority aforesaid, That when at any Time the General Assembly shall order any publick Rate or Tax by them granted, to be paid into the Treasury at two or more several Times or Days of Payment; and any Person or Persons being Inhabitants or Dwellers in any Town, or Precinct or Parish within this Province, at the Time of making such Rate or Tax, and being assessed thereunto, shall be about to remove him or themselves from thence before the Time that shall be prefixt for Payment of the same; it shall and may be lawful in such Case to and for the Constable or Collector of the same Town, Precinct, District or Parish, to demand and levy the whole Sum and Sums which such Person or Persons shall be assessed at in his List or Lists to such Constable or Collector committed, notwithstanding the Time for collecting the second Part of such Rate or Tax may not then be come: And in Default of Payment to distrein for the same, or to take any other Way or Course for the obtaining thereof, according to the Rules and Directions herein before provided. And when and so often as it happens that the Constables or Collectors be a new chosen and sworn for any Town, Precinct, District or Parish, before the former Constables or Collectors have perfected their Collection of any Tax or Assessment to them committed to gather; such former Constables and Collectors are notwithstanding hereby fully impowred and required to perfect all such Collections; and may exercise the same Powers and Authorities for the gathering and enforcing the Payment thereof, as by this Act they might have done before other Constables or Collectors were chosen and sworn.

Constables to
whom any
Tax shall be
committed to
perfect their
Collection
altho' other
Constables be
chosen.

Constables
tho' succeed-
ed in his Office
may demand
Assistance of
the Constables
for the Time
being in mak-
ing Distress,
&c.

And in making any of the Distresses aforesaid, or committing any Person or Persons to Goal as aforesaid, in Case the same should be made after such Constable or Collector shall be succeeded in his Office, it shall be lawful for such Constable or Collector to demand the Aid and Assistance of any of the Constables of the Town for the Time being, where the delinquent Person or Persons lives: And such Constable is hereby enjoined and required to be aiding and assisting accordingly.

Provision in
Case of Lands
being rated in
any Town, in
which the
Owner or
Tenant there-
of does not
dwell.

And be it further enacted by the Authority aforesaid That where the Owner or Tenant of any Lands liable to publick Taxes, shall not reside, or be an Inhabitant of the Town, Precinct, District or Parish in which such Lands lie, and no Stock, Corn or Hay can be found upon the said Lands, whercof the Constable or Collector may make Distress to satisfy such Sum or Sums as from Time to Time such Lands shall be assessed at, either to the Province, County, Town, Parish or Ministerial Charges; in such Case, any Justice of the Peace in the County where the Occupant of any such Lands dwells or resides, upon Application to him made by the Constable or Collector to whom the List wher- in such Lands shall be assessed, shall be committed, and upon Sight of the same, or authentick Copy thereof, may and hereby is impowred and required to grant a Warrant unto the Constable of the Town or Place where such Occupant dwells or resides, to distrein such Occupant by his Goods or Chattels, the full Sum at which the said Lands are set in such List or Assessment, with the Charges occasioned for making such Distress, and to satisfy the same by Sale thereof, returning the Overplus, if any be, to the Owner; and in Case no Goods or Chattels can be found whereon to distrein, to commit the Party to the common Goal of the County, there to remain without Bail or Mainprize, until he pay and satisfy the Sum or Sums so assessed, with the Charges.

Penalty on
defective
Constables or
Collectors.

And be it further enacted by the Authority aforesaid, That if any Constable or Collector to whom any publick Tax or Assessment shall be committed to collect, shall be remiss and negligent of his Duty, in not levying and paying unto the Treasurer or his Deputy, such Sum and Sums of Money, as he shall from Time to Time have received, and as ought by him to have been paid within the respective Times set and limited by the Treasurer's Warrant, according to the Directions therein, pursuant to Law; the Treasurer is hereby impowred, after the Expiration of the Time so set by Warrant under his Hand and Seal, directed to the Sheriff or his Deputy to cause such Sum and Sums of Money to be levied by Distress and Sale of such defective Constables or Collectors

Publick Rates or Taxes.

lectors Estate, Real or Personal, returning the Overplus (if any be) and for want of such Estate to take the Bodies of such Constables or Collectors, and to imprison them, until they pay the same. Which Warrant the Sheriff or his Deputy is hereby impowred and required to execute accordingly.

And be it enacted, That if any Constable or Collector so failing as aforesaid, have no Estate to be found whereon to make Distress, and his Person cannot be taken within the space of two Months from the Time which was set for his paying the same into the Treasury, in such Case, the Town or Precinct whereof the Constable or Collector so fails of his Duty, shall within three Months from the Expiration of the said two Months, make good to the Treasury the Sum or Sums due and owing to the same from such defective Constable or Collector, which the Assessors of such Town having Notice from the Treasurer of the failure of any Constable or Collector as aforesaid, shall forthwith thereupon without any other or further Warrant assess upon the Inhabitants and Estates of such Town in Manner as the Sum so committed to such defective Constable or Collector was assessed, and commit the same to some other Constable or Collector to collect, who is to be impowred thereunto by Warrant from the Treasurer.

The Town or Precinct in which any defective Constable or Collector lives, to be answerable for his Payment into the Treasury, the Sums committed to him to collect.

Provided always, That such Constable or Collector failing of his Duty as aforesaid for whose Default the Town is answerable as before expressed, shall at all times afterwards be liable to the Action or Suit of the Treasurer of such Town for all such Sum and Sums as were assessed upon the same thro' his Default, and for other Damages accruing unto the said Town thereby.

And in Case of the Decease of any Constable or Collector, in any Town, Precinct, District or Parish, before his having adjusted the Accompts of his Assessment to him committed, the Executors or Administrators of such Constable or Collector shall within two Months after his Decease settle and make up Accompts with the Assessors of the said Town, Precinct, District or Parish, of such Part of the Assessment as was received and collected by the deceased Constable or Collector in his Life-time, with which such Executors or Administrators shall be chargeable in like Manner as the deceased Constable or Collector should be if living: And such Assessors shall thereupon procure and appoint some suitable Person or Persons a Collector or Collectors to perfect such Collection; and they are accordingly hereby impowred and required to perform and execute all such Powers as were granted to the deceased Constables or Collectors therein. And if the Executors or Administrators of any Constable or Collector so deceasing, not having fully collected the Assessment committed, shall fail of making up and settling the Accompt of what was received by the Deceased as aforesaid, before the Expiration of the Time aforesaid, such Executors or Administrators, shall be chargeable with the whole Sum committed to be collected by the Constable or Collector, unto whom they are Executors or Administrators, as the deceased Constable or Collector should be, if living, in Case there be sufficient Assets.

Executors or Administrators of Constables deceased, to make up their Accompts, &c.

11 G. ca. 3.

And be it further enacted by the Authority aforesaid, That where any Sheriff or his Deputy shall make Default in accounting for or returning into the Treasury the Sum and Sums mentioned in any Warrant or Warrants of Distress by him to be received from the Treasurer, the Treasurer in such Case is hereby authorized and impowred to make out his Warrant directed unto the Coroner or Coroners of such County, where any Sheriff or Under-Sheriff is defective, requiring them respectively to distrein the same upon the Estate Real or Personal of such defective Sheriff or his Deputy, as is before directed herein, referring to the Sheriff or Under-Sheriff, making Distress upon the Estate of defective Constables or Collectors; Which Warrant the Coroner or Coroners of any County shall be directed, and are hereby impowred and required to execute accordingly.

Penalty on defective Sheriffs or Marshals.

And be it further enacted by the Authority aforesaid, That where any Sheriff or his Deputy shall by Warrant from the Treasurer pursuant to this Act distrein and levy the Lands or Tenements of any Constable or Collector, or where any Coroner shall by Warrant as aforesaid distrein and levy the Lands

How real Estates levied by the Treasurer's Warrant shall be disposed of.

or

False Muster Rolls.

or Tenements of any Sheriff or Under-Sheriff for their or any of their Defaults in not collecting or not paying into the Treasury any Sum or Sums of Money, which ought to be by them collected levied and paid in as aforesaid, in every such Case the Sheriff, or either of his Deputies, or the Coroner executing such Warrant or Warrants of Distress, shall cause due Apprizement to be made of any Houses or Lands so levied by the Oaths of two or three sufficient Freeholders in the same County (which Oath any Justice of the Peace is hereby impow'ed to administer) and after Apprizement thereof so made is hereby fully authorized and impowred to make Sale of such Houses or Lands, and to make, seal, acknowledge and execute good and sufficient Deeds and Conveyances for the same, and out of the Produce thereof to pay and satisfy the Sum and Sums for which such Estate shall be levied, with all Charges arising thereon; and to return the Overplus upon such Sale (if any be) unto the Owner. And all Deeds and Conveyances of any such Estate in Houses or Lands duly executed as aforesaid, shall be good and effectual in the Law unto the Purchaser his Heirs and Assigns for ever to all Intents and Purposes.

Things exempted from Distress.

Provided always, and be it further enacted by the Authority aforesaid, That in no Case whatsoever any Distress shall be made or taken from any Person or Persons of his or their Beasts belonging to the Plow, nor of Tools or Implements necessary for his or their Trade and Occupation, nor of his or their Arms or Utensils of Household, necessary for upholding of Life; nor of Bedding or Apparel necessary for him or themselves or Family: Any Law, Usage or Custom to the contrary notwithstanding.

Town of Province-Town to chuse in January annually.

Provided always, and it is hereby ordained and declared by the Authority aforesaid, That it shall be in the Power of and lawful for the Town of Province-Town annually to elect and chuse in the Month of January at a Meeting regularly called for that Purpose; all Town Officers as the other Towns in this Province are impowred to do at their anniversary Meeting in March: Any Thing before contained herein, or any other Law, Usage or Custom to the contrary notwithstanding.

C H A P. II.

An Act to prevent Frauds in Muster Rolls.

Preamble.

WHEREAS it is judged necessary by this Court, that some Forts and Garrisons within this Province in Time of Peace, should be supported for the Safety thereof, which cannot be without considerable Cost and Charge: And to the Intent that no Money may be drawn out of the publick Treasury for the Payment of any Officer, Soldier or Mariner retained in His Majesty's Service and Pay of this Government, but such as bona fide are not only enlisted, but actually in Person do perform their Duty:

Penalty for false Musters.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Officer posted at any of the Forts, Garrisons or Truck Houses within this Province, and all such Officers as may hereafter be retained in His Majesty's Service, and the Pay of this Government, and have Soldiers or Mariners under their Command and Inlistment, after the Publication of this Act, that shall make any false or untrue Muster of any Man, or shall wittingly or willingly allow or sign any false or untrue Muster-Roll, or any Duplicate of such Roll, upon Proof thereof upon Oath made by two Witnesses before the Superiour Court of Judicature, Court of Assize and General Goal Delivery, shall for such Offence be disabled from having or holding any civil or military Office, or Employment in this Province, and shall likewise forfeit and pay to His Majesty the Sum of One Hundred Pounds; the one Moiety or half Part of which Fine or Forfeiture, to be applied to and for the Use and Support of this His Majesty's Government, the other Part to and for the Use and Service of the Informer or Informers.

And

Intestate Estates.

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And be it further enacted by the Authority aforesaid, That if any Officer shall enter any Person on the Muster Roll by a wrong Name knowingly, upon Conviction thereof, such Officer shall suffer such Pains and Penalties as is directed to be inflicted by this Act, on those that shall make and present any false Muster Roll.

Penalty for entering Soldiers by a wrong Name.

And to discourage, and as far as may be, prevent all Officers from making and presenting false Muster-Rolls :

Be it further enacted by the Authority aforesaid, That upon any Complaint or Information filed against any Officer for Breach of this Act in the Clerk's Office of the Superiour Court of Judicature, setting forth the Facts committed by the said Officer fourteen Days before the Sitting of the said Court, upon Leave obtained under the Hand of the Captain General or Commander in Chief, the Clerk shall issue forth a Summons to the Officer informed against, commanding him to appear at the Superiour Court of Judicature, &c, to answer to such Complaint ; which Summons with a Copy of the Information shall be served upon the Officer complained of fourteen Days before the Sitting of the Court.

Summons to be given for Offenders Appearance.

And be it further enacted by the Authority aforesaid, That if any Witnesses to prove the Facts complained of, be retained in his Majesty's Service, and Pay of this Government at any of the Forts or Truck-Houses, or Vessels, upon Application made to and Leave therefor had from the Captain-General or Commander in Chief, as aforesaid ; the Clerk shall make out Sub-Penas for such Witnesses to attend the said Court, as Evidences in the said Cases.

Sub Penas to be issued for Witnesses.

And be it further enacted by the Authority aforesaid, That if any Officer shall presume to detain any Soldier or Sailor under his Command, or any Ways prevent their attending the said Court, when summoned and notified as before directed, such Officer upon Conviction thereof, shall forfeit and pay the Sum of One Hundred Pounds, to be disposed of in such Manner as in this Act is already provided : To be recovered by Bill, Complaint or Information in His Majesty's Superiour Court of Judicature, Court of Assize and General Goal Delivery : Any Law, Usage or Custom to the contrary notwithstanding.

Penalty for an Officer's preventing Witnesses to appear.

C H A P. III.

An Act in Addition to the Act Intituled *An Act for the Settlement and Distribution of the Estates of Intestates.*

4 W. & M. ca. 2.

WHEREAS in and by an Act made and pass'd in the fourth Year of the Reign of King William and Queen Mary, Intituled An Act for the Settlement and Distribution of the Estates of Intestates ; It is among other Things Provided, That the Apprizement and Divison of the Houses and Lands of any Person dying Intestate, shall be made by Freeholders to be appointed and sworn by the Judge for the Probate of Wills and granting Administrations ; which Practice by Reason of the great Distance of the said Judge, from some such Estates, hath been found very burthensome and expensive :

Preamble

For Remedy whereof :

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That hence forward when and so often as it shall happen that the Estate of any Person dying Intestate shall be more than ten Miles distant from the dwelling Place of the Judge of Probate, for the County where such Estate shall lie, it shall be in the Power of any one of his Majesty's Justices of the Peace, for the several Counties, to swear the Persons appointed for the Purpose aforesaid : And in Case such Estate be more than ten Miles distant from a Justice of the Peace, such Persons as aforesaid, may be sworn by the Clerk of the Town where the Estate lies, a Certificate of such Oath taken by the Justice and Clerk respectively, to be given into the Probate Office when the Persons appointed and sworn as aforesaid, make Return of their Doings : Any Law, Usage or Custom to the contrary notwithstanding.

Persons to appraise and divide Intestate Estates to be sworn by a Justice of the Peace, in Case.

C H A P. IV.

An Act for erecting, granting and making a County in the Inland Parts of this Province, to be called the County of *Worcester*, and for establishing Courts of Justice within the same.

New County
erected by
the Name of
Worcester.

Names of the
Towns there-
in.

Courts of
Justice estab-
lished in said
County.

Proviso re-
ferring to
Matters now
depending in
the Courts of
the other
Counties.

Proviso re-
ferring to the
Registry of
Deeds in the
other Counties

26 It enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Towns and Places hereafter named and expressed, That is to say, *Worcester, Lancaster, Westborough, Shrewsbury, Southborough, Leicester, Rutland, and Lunenburg*, all in the County of *Middlesex*; *Mendon, Woodstock, Oxford, Sutton* (including *Hassanamisco*) *Uxbridge*, and the Land lately granted to several Petitioners of *Medfield*, all in the County of *Suffolk*; *Brookfield* in the County of *Hampshire*, and the South Town laid out to the *Narragansett* Soldiers; and all other Lands lying within the said Townships, with the Inhabitants thereon, shall from and after the tenth Day of *July*, which will be in the Year of our Lord One Thousand seven Hundred and thirty one, be and remain one intire and distinct County, by the Name of *Worcester*, of which *Worcester* to be the County or Shire Town: And the said County to have, use and enjoy all such Powers, Priviledges and Immunities, as by Law other Counties within this Province have and do enjoy.

And be it further enacted by the Authority aforesaid, That there shall be held and kept within the said County of *Worcester* yearly and in every Year, at the Times and Place in this Act hereafter expressed, a Court of General Sessions of the Peace, and an Inferiour Court of Common Pleas, to sit at *Worcester* on the second Tuesdays of *May* and *August*, and the first Tuesdays of *November* and *February* yearly and in every Year, until this Court shall otherwise order: Also, That there shall be held and kept at *Worcester* within the said County of *Worcester* yearly and in every Year until this Court shall otherwise order, a Superiour Court of Judicature Court of Assize and General Goal Delivery, to sit on the Wednesday immediately proceeding the Time by Law appointed for the holding of the said Superiour Court of Judicature Court of Assize and General Goal Delivery at *Springfield*, within and for the County of *Hampshire*: And the Justices of the said Court of General Sessions of the Peace, Inferiour Court of Common Pleas, Superiour Court of Judicature, Court of Assize and General Goal Delivery, respectively, who are or shall be thereunto lawfully commissioned and appointed, shall have, hold, use, exercise and enjoy all and singular the Powers which are by Law already given and granted unto them, within any other Counties of the Province, where a Court of General Sessions of the Peace, Inferiour Court of Common Pleas, Superiour Court of Judicature, Court of Assize and General Goal Delivery, are already established.

Provided, That all Writs, Suits, Plaints, Procefs, Appeals, Reviews, Recognizances, or any other Matters or Things which now are, or at any Time before the said tenth Day of *July*, shall be depending in the Law within any Part of the said County of *Worcester*; and also all Matters and Things which now are, or at any Time before the said tenth of *July*, shall be depending before the Judges of Probate within any Part of the said County of *Worcester*, shall be heard, tried, proceeded upon and determined in the Counties of *Suffolk, Middlesex* and *Hampshire* respectively, where the same are or shall be returnable or depending, and have or shall have Day or Days.

Provided also, That nothing in this Act contained, shall be construed to disannul, defeat, or make void any Deeds or Conveyances of Lands, lying in the said County of *Worcester*, where the same are, or shall be before the said tenth of *July*, recorded in the Register's Office of the respective Counties where such Lands do now lie; but that all such Deeds or Conveyances so recorded, shall be held good and valid as they would have been had not this Act been made.

And

Courts to Adjourn in Case of Sickness.

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And be it further enacted by the Authority aforesaid, That the Justices of the Court of General Sessions of the Peace at their first Meeting in the said County of *Worcester*, shall have full Power and Authority, to appoint some meet Person within the said County of *Worcester* to be Register of Deeds and Conveyances within the same, who shall be sworn to the faithful Discharge of his Trust in the said Office, and shall continue to hold and exercise the same according to the Directions of the Law, until some Person be elected by the Freeholders of the said County of *Worcester*, who are hereby impowered to choose such Person on the first Thursday of *September* next ensuing, by the Methods in the Law already prescribed, to take upon him that Trust: And until such Register shall be so appointed by the said Justices and sworn, all Deeds and Conveyances of Lands lying within any Part of the County of *Worcester*, which shall be recorded in the Register's Office of the respective Counties where such Lands do now lie, shall be held and deemed good and valid to all Intents and Purposes as to the recording thereof.

Register of
Deeds to be
chosen.

And be it further enacted by the Authority aforesaid, That the Methods, Directions and Proceedings by Law provided as well for the electing and choosing a Register of Deeds and Conveyances, as a County Treasurer, which Officers shall be appointed in the same Manner as is by Law already provided, on the first Thursday of *September* next, and also for the bringing forward and trying any Actions, Causes, Pleas or Suits both Civil and Criminal in the several Counties of this Province and Courts of Judicature within the same, and choosing of Jurors to serve at the Courts of Justice, shall extend and be attended, observed and put in Practice within the said County of *Worcester*, and by the Courts of Justice within the same: Any Law, Usage or Custom to the contrary notwithstanding.

Manner of
appointing a
Register of
Deeds and
County Treas-
urer.

Provided always, That the Inhabitants of the several Towns and Places herein before enumerated and set off a distinct County, shall pay their Proportion to any County Rates or Taxes already made and granted, in the same Manner as they would have done, had not this Act been made.

Proviso about
Taxes.

C H A P. V.

An Act impowring Courts to adjourn and remove from the Towns appointed by Law, for holding Courts to other Towns, in Case of Sickness by the Small Pox.

WHEREAS the several Acts of this Province for establishing and holding the Superiour Court of Judicature, Court of Assize and General Goal Delivery, Courts of General Sessions of the Peace, and Inferiour Courts of Common Pleas in the several Counties of this Province, and for ascertaining the Time and Place for holding the same, do not impower the Justices of the said Courts to adjourn to any other Town from those where the said Courts are held according to Law, tho' at the same Time the Small-Pox (being a mortal infectious Distemper) may prevail there, and so endanger the Lives and Health of many of His Majesty's good Subjects obliged to attend said Courts, or in a great Measure prevent Persons concerned attending, whereby Justice may be greatly delayed, and the Subject oppressed:

Preamble.

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any of the before-mentioned Towns shall be visited with the aforesaid mortal infectious Distemper, at the Time appointed for holding said Courts, that then it shall be in the Power of the Justices of said Courts to adjourn and remove to one of the next adjacent Towns of Safety: Any Law, Usage or Custom to the contrary notwithstanding.

Courts to be
removed in
Case of the
Small Pox.

C H A P. VI.

An Act in further Addition to an Act Intituled *An Act for due Regulation of Weights and Measures*, made in the fourth Year of the Reign of their late Majesties King *William* and Queen *Mary*.

Standard of
Weights and
Measures.

4 W. & M.
ca. 14.
12 W. ca. 11.

4 A. ca. 2.

WHEREAS it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Brass and Copper Weights and Measures lately sent out of *England*, with Certificate out of His Majesty's Exchequer to be approved *Winchester* Measure according to the Standard in the Exchequer, be the publick allowed Standard throughout this His Majesty's Province, for the proving and sealing all Weights and Measures thereby. And the Constables of every Town throughout this Province, not already supplied, shall within three Months next after the Publication of this Act provide upon the Town's Charge, one Bushel, one half Bushel, one Peck, one half Peck (conformable as to Bigness to the said Standard, and of the same Breadths, as are already mentioned in an Act made in the twelfth Year of the said King *William*, Intituled, *An Act in Addition to the Act for due Regulation of Weights and Measures* :) as also one Ale Quart, one Wine Pint and half Pint; one Ell, one Yard, one Sett of brass Weights, to four Pounds, (after sixteen Ounces to the Pound,) with fit Scales and Steel Beams, tried and proved by the aforesaid Standard, and sealed with a Seal (of the Letters *P. M.* (which shall be kept for that Purpose) by the Province Treasurer, or some other Person, in his Presence and by his Order; which said Weights and Measures shall be kept and used only for Standards in in the several Towns) and the said Treasurer is hereby authorized and required to do the same, for which he shall receive from the Constables of each Town *two Pence* for every Weight and Measure tried, proved and sealed as aforesaid: Any Law, Usage or Custom to the contrary notwithstanding.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1731. And continued by several Adjournments unto Wednesday the third Day of *November* following.

C H A P. I.

An Act making more effectual Provision for the calling of Precinct or Parish Meetings.

Preamble.

WHEREAS His Majesty's Justices of the Peace in their several Counties are, by the Acts or Laws of this Province already made, impowred, upon Application made to them, to issue out their Warrants for the calling of the first Meeting of any Parish or District regularly set off; but no Provision is made for the calling any after Meeting in Case of the Death or Refusal of any of the major Part of such a Committee, as are impowred to call other or after Parish Meetings:

Justices im-
powred to
call Precinct
Meetings af-
ter the first,
in Case.

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That when it shall so happen by the Refusal of any Committee impowred to call Meetings in any Parish or District, or their being disabled by the Death or Removal of the major Part of such Committee, that then it shall and may be lawful for any Justice of the Peace in the County where such Precinct, District or Parish lies; and such Justice is hereby impowred upon Application

Petit Jurys. Powder House.

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to him made by five or more Frecholders of such Precinct or Parish, by writing under their Hands, for calling of a Meeting, to issue out a Warrant for the assembling such District or Parish, directed to one of the Frecholders, requiring him to notify the Freeholders and others (qualified by Law to vote) of the Time and Place of the Meeting : And the Freeholders and other Inhabitants so convened shall have full Power to choose all necessary Officers to act and transact all Matters and Things relating to their Parish, as they shall judge convenient : *Provided*, That such Matters and Things are contained in the Warrant or Notification of the said Meeting.

And whereas no Provision is made in the Law for swearing of Parish Officers in Towns where no Justice of the Peace dwells, and the travelling to other Towns is attended with Charge and Difficulty : Therefore,

Be it enacted by the Authority aforesaid, That the Assessors and other Officers in any Parish or District being in a Town where no Justice of the Peace dwells, shall and may be sworn to the faithful Discharge of their Office before the Clerk of such Parish or Precinct, who is accordingly impowred to administer the same; the said Clerk being first sworn before one of His Majesty's Justices in the said County.

Preamble.

Clerk to administer an Oath where no Justice dwells.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1732.

CHAP. II.

An Act providing Pay for keeping Petit Jurys.

WHEREAS the several Courts of Justice established within this Province, have for Years past been in the constant Practice of appointing Persons under Oath to keep the Jury of Trials when they have Causes committed to them between the Crown and the Subject, or between Man and Man; which Usage hath been of great Service, and tended to the more equal Distribution of Justice. But in as much as there is no Fee or Allowance by Law stated for such Service :

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Fee for keeping the Jurys in all such Cases shall be one Shilling and no more for each Action : Any Law, Usage or Custom to the contrary notwithstanding.

Fee for keeping Jurys.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1732. And continued by Adjournment unto Wednesday the first Day of *November* following.

CHAP. I.

An Act in further Addition to and Explanation of an Act in Addition to an Act for erecting of a Powder-House in *Boston*.

WHEREAS the Forfeitures for keeping a greater Quantity of Gun-Powder than is allowed by Law, in any of the Houses or Warehouses in the Town of *Boston*, as provided in an Act made and passed

Preamble.

passed.

Law Suits.

passed in the second Year of his late Majesty's Reign, Intituled, An Act in Addition to an Act for erecting a Powder-House in Boston, are found not sufficient to prevent the Breaches of that Act :

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and the Authority of the same, That there shall be a further Sum of five Pounds Penalty, making in the whole ten Pounds, for every half Barrel of Powder, and so pro rato, kept in any House or Warehouse contrary to that Act.

And whereas some Doubts have arisen about the Forfeiture of Powder when found and informed against :

The whole Powder to be forfeited when it exceeds what is allowed by Law.

Be it further declared by the Authority aforesaid, That when any Quantity of Powder is found to be in any House or Warehouse other than by Law permitted, all such Powder as well the Quantity allowed, as the Over-plus, shall upon Conviction be declared forfeited ; and if any Person selling or retailing Powder, shall lodge any Powder in any of his Out-Houses or Buildings, in his Yard, Garden, or any of the Dependencies thereof, more than by that Law he may, the whole Quantity shall be forfeited as aforesaid.

The said Forfeitures to be recovered in Manner as is provided in the aforesaid Act.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England ; Begun and held at Boston, upon Wednesday the thirty-first Day of May 1732. And continued by several Adjournments unto Wednesday the fourth Day of April following.

C H A P. II.

An Act in Explanation of and Addition to an Act Intituled An Act to prevent unnecessary Law-Suits.

Preamble.

WHEREAS by an Act made and passed in the fourth Year of His present Majesty's Reign, Intituled An Act to prevent unnecessary Law-Suits : It is provided, " That where any Person is sued in a " Plea of Debt due by Book, he may plead what is due upon his Book, by " Way of Balance to the Plaintiff's Book : upon which many Doubts have " arisen and may arise :

Wherefore, for the Explanation thereof ;

Accompts open or balanced admitted as Evidence.

Defendants Book admitted as Evidence against the Plaintiffs Demand.

Be it enacted and declared by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the true Intent and Meaning thereof is, That if any Person be sued in any Action, either of Debt or of the Case, for any Sum of Money due upon Contract between the Parties for any Goods sold, or Service done, whether the Accompt be open, or a Balance thereof be made and signed by the Parties (except Specialties and expresse Contracts in writing) he may either plead specially, or upon the general Issue, give in Evidence what is due upon his Book by Way of Balance to the Plaintiff's Demand, and be admitted to all such Method and Course of proving his Accompt as any Plaintiff upon his Suit might.

Preamble.

And inasmuch as it hath sometimes happened that when two Persons have at the same Time Execution against each other, one of them absconds and leaves a Power of Attorney with some other Person, to receive the Money due on his Execution, and by his absconding as aforesaid avoids paying the other Execution:

For Prevention whereof, and such like Inconveniencies for the future ;

Civil Causes.

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Be it enacted by the Authority aforesaid, That when and so often as it shall happen that the Sheriff, his Deputy, or any Coroner, or his Deputy, or Constable, shall at the same Time have several Executions, wherein the Creditor in one Execution is Debtor in the other, that in such Case such Officer or Officers are hereby impowered and directed to cause one Execution to answer and satisfy the other, so far as the same will extend.

One Execution to answer another.

Provided always, That this Act shall not be construed to extend to any Judgments and Executions, wherein the Creditor in one Execution, is not in the same Capacity and Trust Debtor in the other.

Provido.

C H A P. III.

An Act in Addition to the Act Intituled, *An Act for Review in Civil Causes.*

13 W. ca. 16:

WHEREAS in and by an Act of this Province, Intituled, *An Act for Review in Civil Causes. made and passed in the thirteenth Year of the Reign of his late Majesty King William the third, It is enacted, "That it shall be in the Liberty of the Party aggrieved, at the Judgment given in any " Inferiour Court of Common Pleas, or in the Superiour Court of Judicature " respectively, by new Process to Review the said Cause, once in each Court ; "* And it is also thereby further Enacted, " That Execution shall not be stay'd " or suspended for, or by Reason of any Process of Review " : Which Law by Experience hath been found to be in general Good and Wholsome : But by Reason of the last mentioned Clause of the Act, it hath frequently happened in Cases where the Plaintiff in the original Action hath obtained Judgment against the Defendant, upon the Appeal at the Superiour Court of Judicature, whereupon Execution hath immediately issued, and the original Defendant, either by Means of the said Plaintiff's living out of the Province, or of his Insolvency, or of his suing as Executor or Administrator, hath been defeated of duly serving his Writ of Review or finally lost or been put to great Difficulty to recover back the Money levied by Execution, altho' he prosecuted his Writ of Review at the next Superiour Court of Judicature, and Judgment there rendred for reversing the former Judgment with Costs ; which is such an Hardship upon the original Defendant that he loses the good Effects intended by the said Law :

Preamble,

For Remedy whereof for the future ;

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when the original Plaintiff in any personal Action now depending, or hereafter to be commenced upon the Trial of the Appeal at the Superiour Court, shall obtain Judgment against the original Defendant for any Sum or Sums of Money or other Things sued for and Costs ; in all such Cases such Defendant entering into Bonds at the Time of making up the said Judgment, with sufficient Security to be approved of by the said Court, with Condition to prosecute a Writ of Review of the said Action with Effect, at the next Superiour Court of Judicature to be holden within and for the same County, and to answer and pay to the original Plaintiff for the Debt recovered after the Rate of twelve Pounds per Cent. per Annum, being double Interest, from the Time of making up said Judgment, for his being delayed, and double additional Costs, in Case the Judgment be affirmed, Execution shall be stay'd until Judgment upon the Review ; and in Case the original Plaintiff shall not be an Inhabitant or Resident in this Province at the Time of prosecuting the Writ of Review, it shall be deemed a good and legal Service for the Plaintiff on the Review to serve the Attorney, Factor, Agent or Trustee of the original Plaintiff, or such Person as appeared for the original Plaintiff, on the Appeal with his Writ of Review, which shall be deemed as effectual to hold him, to Answer and Defend

Execution on Judgments on the Appeal to be stay'd in Case.

Writs of Review may be served on Attorney &c. in Case.

in

Proviso. in the said Action, as if he himself were served with said Process. *Provided*, that the double Interest aforementioned shall not extend to the letting of Cattle or Usages of the like Nature in Practice among Farmers, or maritime Contracts among Merchants, as Bottomry or Course of Exchange, as hath been heretofore accustomed.

Writ of Review in real Actions may be served on Ter-Tenants in Case.

And be it further enacted by the Authority aforesaid, That in all real Actions where the Defendant or Defendants in the Review happen to live out of the Province, so that he she or they can't be duly served with a Writ of Review, the Service of such Writ upon the Ter-Tenant or Person in Possession of the Premises, shall be deemed a good Service, to hold the Defendant or Defendants to Answer and Defend in said Suit; and the Court of Judicature where the said Writ is returnable, shall proceed to try the Action as if Process had been served upon the original Defendant or Defendants personally.

C H A P. IV.

6 G. ca. 1.

An Act in Addition to an Act Intituled *An Act for the suppressing of Lotteries.*

Preamble.

WHEREAS the Provision made in and by an Act Intituled, An Act for the suppressing of Lotteries, made and pass'd in the sixth Year of the Reign of his late Majesty King George the first, has not been found sufficient to put a Stop to that Practice, but sundry Persons have exposed their Estates as well Real as Personal to Sale by Lotteries, projected, and the Tickets disposed of, within this Province, reserving the drawing of the Lots in some of the neighbouring Colonies or Provinces; whereby the good and wholesome Design and true Intent and Meaning of the aforesaid Act, is very much eluded and evaded, to the great Discouragement of Trade and Industry, and grievous Hurt and Damage of many unwary People:

For Remedy whereof:

Fine for setting up a Lottery.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, if any Person or Persons shall undertake or set up any Lottery, or expose to Sale, or dispose of any Estate, Real or Personal, by way of Lottery, such Person or Persons shall for such Offence forfeit and pay the Sum of five Hundred Pounds, to be recovered by Information, Complaint, Bill or Action at Law, in any of His Majesty's Courts of Record within this Province; the one Half thereof to be to the King's Majesty, to be applied towards the Support of this Government; the other Half to him or them that shall inform and sue for the same.

For publishing any Account of Lotteries.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall be aiding or assisting in any Lottery, by printing, writing or any otherways publishing an Account thereof, or where Tickets may be had for the same, such Person or Persons shall forfeit the Sum of one Hundred Pounds, to be recovered and disposed of in Manner as aforesaid.

For selling Lottery Tickets.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall offer or expose to Sale, give, sell, or otherways dispose of to any Person within this Province, any Lottery Tickets for the Sale of any Estate whatsoever, Real or Personal, such Person or Persons shall forfeit the Sum of two Hundred Pounds for each Ticket so exposed to Sale or otherwise disposed of, to be recovered in Manner as aforesaid, and for the Use aforesaid; and the Person so offending shall be incapable of sustaining any Office or Place of Profit whatsoever, within this Province.

Proviso.

Provided always, That this Act shall not be construed to extend to any Lottery allowed by Act of Parliament, or Law of this Province.

Precinct Meetings.

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An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1733. And continued by Adjournment unto Wednesday the fifteenth Day of *August* following.

C H A P. I.

An Act in further Addition to an Act Intituled *An Act for making effectual Provision for the calling of Precinct or Parish Meetings.* 4 & 5 G. 2. ca. 1.

WHEREAS by an Act made in the fourth and fifth Years of the Reign of his present Majesty, Intituled An Act for making effectual Provision for the calling of Precinct or Parish Meetings, It is Enacted, Preamble,
 " That when it shall so happen, by the refusal of any Committee impowred to
 " call Meetings in any Parish or District, or their being disabled by the Death
 " or Removal of the major Part of such Committee, that then it shall be law-
 " ful for any Justice of the Peace in the County where such Precinct, District
 " or Parish lies, and such Justice is impowred to issue out a Warrant for the
 " assembling such District or Parish, &c." But no Provision is made by the
 said Act for the calling of Precinct or Parish Meetings after the first Meet-
 ing, where there shall be a Failure of chusing and appointing a Committee to
 call Meetings for the future, as it hath sometimes happened ; by Means where-
 of many Inconveniencies have arisen :

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That where no such Committee has been chosen in any Parish or Precinct, then and in such Case, upon Application of five or more of the Freeholders and Inhabitants of such Precinct or Parish, to any one of His Majesty's Justices of the Peace of the County where such Precinct or Parish lies, by writing under their Hands for calling of a Meeting, to choose Precinct Officers, and to transact such Matters and Things necessary for the ordering the Affairs of such Precinct or Parish, such Justice is hereby impowred and directed to issue out a Warrant for the assembling such Precinct, District or Parish as aforesaid, directed to the Clerk (if any be) or one of the Freeholders asking the same, requiring him to notify the Freeholders and other Inhabitants (qualified by Law to vote in Town Affairs) of the Meeting in like Manner, and according to the Rules and Directions prescribed in an Act Intituled, *An Act in further addition to the Act for the more effectual providing for the Support of Ministers*, made in the tenth Year of the Reign of King George the first. A Justice of the Peace to call Parish Meetings after the first Meeting in Case.

And whereas many Inconveniencies have arisen from a Justice of the Peace only being impowred to swear a Precinct or Parish Clerk. Preamble.

Be it therefore enacted by the Authority aforesaid. That in Case there be no Justice of the Peace present at the Choice of a Parish or Precinct Clerk, that then it shall be in the Power of the Moderator of such Precinct or Parish Meeting, to swear such Parish or Precinct Clerk, to the faithful Discharge of his Office ; who is hereby impowred to swear the rest of the Precinct Officers. The Moderator of the Meeting to swear the Parish Clerk in Case.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1733. And continued by several Adjournments unto Wednesday the third Day of *October* following.

C H A P. I.

4W. & M. ca 2 An Act in further Addition to the several Acts or Laws for the Settlement and Distribution of the Estates of Intestates.

Preamble.

WHEREAS it often happens, that Persons dying Intestate are seized and possessed of Lands, and other real Estate, lying and being in several Counties within this Province; and thereupon it hath been disputed, whether the next of Kin and Heirs at Law ought not to apply to the Judges of Probate in the respective Counties where such Lands and real Estate lie, for a Settlement and Distribution of the same; by Means whereof, not only great Trouble, Cost and Charge hath arisen and been occasioned to the Parties concerned, but the same hath been attended with many other Inconveniencies:

Power to settle Lands in several Counties by one Judge of Probate.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when it shall so happen, that any Person shall die Intestate, seized of Lands or other Real Estate, lying in several Counties within this Province, the Judge of Probate for any such County (preference to be always given to the Judge of Probate for the County where the Deceased was an Inhabitant at the Time of his Death,) shall have full Power and Authority to make a Settlement and Distribution of the whole of the Real Estate of such Intestate, in whatsoever County in this Province lying and being, in the same Manner and by the same Rules as are already prescribed by Law: And the like Power and Authority is hereby granted to the several Judges of Probate in this Province, with respect to any Intestate Estate nor already settled.

Proviso.

Provided always, That this Act nor any Thing therein contained shall be construed to extend to, or any wise affect any intestate Estate already settled.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the thirtieth Day of *May*, 1733. And continued by several Adjournments unto Wednesday the tenth Day of *April* following.

C H A P. II.

4W. & M. ca 6. An Act in further Addition to an Act Intituled *An Act for the punishing of Criminal Offenders.*

Preamble.

WHEREAS the Penalties already provided in and by an Act made and passed in the fourth Year of the Reign of King William and Queen Mary, Intituled, An Act for the punishing of criminal Offenders, have in a great Measure proved ineffectual to restrain Persons from Drunkenness, profane Swearing and Cursing:

Penalties for Drunkenness and profane swearing and cursing.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That for the future, whoever shall be convicted of profane Swearing or Cursing shall for the first Offence forfeit and pay the Sum of *ten Shillings*, and for every such Oath or Curse after the first (uttered at the same Time, and in the hearing of the same Person or Persons) the Sum of *two Shillings*: And if any such Offender shall at any other Time afterward, be convicted of profane Swearing or Cursing, he or she shall forfeit and pay for every such Oath or Curse, the Sum of *ten Shillings*, and also be proceeded with in like Manner

Manner, as the aforesaid Act directs in Case of a second Conviction of Drunkenness. And if any Person shall be convicted of Drunkenness, such Offender shall forfeit and pay the Sum of *ten Shillings* for every such Offence.

The respective Fines before-mentioned, to be recovered in the Manner, at the Time, and disposed of for the Use in said Act mentioned.

And in Case any such Offender as aforesaid, shall be unable or refuse to pay such Fine or Fines, on him or her imposed, the Justice or Justices before whom the Conviction shall be, are hereby impowred to punish such Offender agreeable to the Direction of the Law made in the fifth Year of King *William* and Queen *Mary*, Intituled *An Additional Act for the punishing Criminal Offences*.

5 W. & M.
ca. 4.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1734.

C H A P. III.

An Act in Addition to the several Acts relating to and for preventing of Encroachments and Incumbrances upon High Ways, private Ways, Streets, &c.

5 W. & M.
ca. 8.
10 W. III ca. 1
12 A. ca. 6.
11 G. ca. 3.

WHEREAS the Provision made by the Law for removing of Incumbrances, Buildings or Fences upon or across, or that do or may obstruct or streighten the high Ways, private Ways, Town Ways, Streets or Alleys, has been found in some Cases insufficient to pay and satisfy the Charge of removing the same : And whereas also it frequently happens (in ancient Towns especially) that after Lands have been long fenced in particular Lots or Proprieties, such Fences are generally reputed the Bounds between such particular Lots, and the high Ways, private Ways, Streets, Alleys or Commons within such Town, and no Monuments remain of any other Boundaries ; whereby great Advantage is given (to Persons so disposed) to encroach on said high Ways and Commons, and the Prosecution of such Offences is rendred extreamly difficult :

Preamble.

For Remedy whereof :

Be it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That if any Person or Persons at any Time from and after the Publication of this Act, shall presume to set up or cause to be set up or erected any Building, Fence or other Incumbrance whatsoever, in, upon, or over any of the Roads, high Ways private Ways, Streets, Lanes or Alleys, in any Town within this Province, or continue any such Incumbrance, and be duly convicted thereof, the said Incumbrances, Buildings or Fences, shall be removed, as in and by Law is directed : And in Case the Materials of such Buildings, Fences, or other Incumbrances, be insufficient to pay and satisfy the Charges of removing the same, and Costs of Prosecution, the Court or Justice before whom such Prosecution shall be made, shall and are hereby impowred to order the Payment thereof, out of other Goods or Estate of the Person or Persons so offending, and award Execution accordingly.

Buildings,
Fences, &c.
on high Ways,
&c to be re-
moved.

Charges how
to be desrey'd.

And be it further enacted by the Authority aforesaid, That where Fences have been erected fronting against any of the common Lands and high Ways, private Ways. Streets, Lanes or Alleys in any Town or Peculiar within this Province, where the Breadth of such high Ways, private Ways, Streets, Lanes or Alleys is not known, nor can be made certain by the Records thereof, nor any other Boundaries, and such Fences have been upheld and maintained for

Boundaries
stated.

No Fences to be remov'd nearer Commons, high Ways, &c. without duly notifying the Select-Men, or other Persons appointed.

Penalty.

more than the space of thirty Years, such Fence or Fences shall then, and from thenceforth, be accepted, reputed and taken as the Lines or Boundaries between the said Commons, high Ways, private Ways, Streets, Lanes or Alleys, and the Lands lying in particular Propriety adjoining thereto, unless the Owner or Owners of such Lands do make it appear by authentick Records, or credible Witnesses, that his or their Bounds did extend further in the original Grant thereof.

And be it further enacted by the Authority aforesaid, That if any Owner or Proprietor of Lands inclosed and fenced as aforesaid, shall remove his or their Fence or Fences further towards any such Commons, high Ways, Streets, Lanes or Alleys, without duly notifying the Select-Men of the Town wherein such Lands do lie, or such other Person or Persons respectively, as are or shall be chosen and appointed by such Town or the Proprietors thereof, to take the Care and Inspection of the Boundaries between the Land of particular Persons and the Lands in said Town, appropriated for Common, High-Ways, &c. that so the Lines or Boundaries may be perambulated before the Fences be so removed, every such Person and Persons so offending, or that shall be aiding or assisting therein, upon Conviction thereof, shall forfeit and pay the Sum of *forty Shillings*, to be disposed of, one Half to the Poor of such Town where the Offence shall be committed, the other Half to him or them that shall inform and sue for the same.

C H A P. IV.

Note. The Act which this is founded upon is not among the Perpetual Acts.

An Act in Addition to an Act, Intituled *An Act for the Ease of Prisoners for Debt.*

Preamble.

WHEREAS it is provided in and by an Act made and pass'd in the fourth Year of the Reign of King George the second, Intituled, *An Act for the Ease of Prisoners for Debt*, "That any Person imprisoned for Debt, either upon mean Process or Execution, shall be allowed the Liberty of the Prison Yard, the Prisoner with two sufficient Sureties, giving Bond to the Sheriff for his keeping within the Limits thereof, until lawfully discharged." And although it is further provided, "That in Case of an Escape the Penalty of such Bond shall be to and for the Use of the Creditor, and shall be transferred and assigned over to the Creditor by the Sheriff." Yet forasmuch as the Creditor upon putting such Bond in Suit can recover Judgment only for the original Debt, with Cost of Suit and Interest; by Reason of which, Escapes are not sufficiently discouraged, and many Creditors kept out of their just Dues to their great Hurt and Damage:

For Remedy whereof:

Upon Prisoners Escape, the whole Bond assign'd to the Creditor.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That henceforward, when and so often as any Prisoner, having given Bond as aforesaid, shall make an Escape, the whole Penalty of such Bond shall be to and for the Use of the Creditor, and shall be transferred and assigned over to the Creditor by the Sheriff, with full Power to enable him to put the same in Suit, and the Creditor shall recover the whole Sum therein expressed, and the Court shall make up Judgment accordingly.

C H A P. V.

An Act for Regulating the Proceedings on Bonds of Administrators on Intestate Estates.

4 W. ca. 2.

Preamble.

WHEREAS in and by an Act or Law of this Province, made in the fourth Year of the Reign of King William and Queen Mary, Intituled, *An Act for the Settlement and Distribution of the Estates of Intestates; the Judges*

Townships, &c.

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Judges for Probate of Wills, and granting of Administrations in the respective Counties, are required to take Bond of such Person or Persons, to whom they grant the Administration of the Estate of any Intestate, and it sometimes happens, that such Judges do put those Bonds in Suit, and distribute the Sums recovered thereon, to and among the Parties interested in such Manner, as in and by the said Act is directed: And whereas it has happened, that after such Distribution as aforesaid the Administrator has brought his Action of Review, and thereupon obtained a Reversal of the former Judgment; in which Case the respective Judges of Probate are liable to an Execution and thereby exposed to great Charge and Inconvenience:

For Remedy whereof:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any of the Judges for the Probate of Wills and granting of Administrations, shall put in Suit any Administrator's Bond, and recover a Judgment for the Penalty therein expressed, or any Part thereof at any Inferiour Court of Common Pleas, or Superiour Court of Judicature, Execution of such Judgment shall be staid, until the next Session of the Court whereat the same was obtained, that so such Administrator may then (if he sees Cause) have an Opportunity to review his Action: and if he shall neglect so doing Execution shall thereupon be awarded; and the Judge for Probate shall make Distribution of the Sum recovered to and among the Parties interested therein, agreeable to the Direction of the Law: And every such Administrator is hereby forever precluded and bar'd from bringing any such Action afterward.

Execution to be staid upon Judgment recovered by the Judge of Probate.

C H A P. VI.

An Act in Explanation of and further Addition to an Act Intituled *An Act for Regulating of Townships, Choice of Town Officers, and setting forth their Power.*

4 W. & M. ca. 13.

WHEREAS in and by an Act made and passed in the fourth Year of King William and Queen Mary, Intituled, An Act for Regulating of Townships, Choice of Town Officers, and setting forth their Power, *It is provided,* "That the Bounds of all Townships shall be run betwixt Town and Town, and Marks renewed once in three Years, by two of the Select-Men of each Town, or any other two Persons whom the Select-Men shall appoint; the Select-Men of the most ancient Town to give Notice to the Select-Men of the next adjacent Towns, of the Time and Place of meeting for such Perambulation six Days before Hand, on pain of forfeiting five Pounds by the Select-Men of any Town that shall neglect their Duty in any of the Particulars aforesaid; two Thirds thereof for the Use of the Poor of such Town; and the other Third unto the Select-Men of any of the next adjacent Towns that shall inform and sue for the same, in the Inferiour Court of Common Pleas within the same County." *Whereupon some Disputes have arisen as to the Disposition of the said Forfeiture of five Pounds.*

Preamble.

For Prevention whereof, and that the said Act may be rendred more effectual;

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when the Select-Men of any Town within this Province, whose Duty it is by the said Act to give Notice unto the Select-Men of the next adjacent Towns of the Time and Place of Meeting for preambulating the Bounds betwixt them, shall neglect their Duty in that Particular, they shall forfeit and pay the Sum of fifteen Pounds. And if the Select Men of any Town within this Province shall (upon Notice given as aforesaid) refuse or neglect by themselves

Forfeiture for not perambulating Town Bounds.

How to be
disposed of.

themselves or others by their Appointment, to meet and perambulate such Bounds, altho' they may be the Bounds between County and County, they shall forfeit and pay the Sum of *fifteen Pounds* : The said Fines or Forfeitures to be disposed of, one Third to the Select-men, or other Person of the Town, which is not negligent of their Duty in this Behalf, who shall inform and sue for the same ; and the other two Thirds to the Use of the Poor of the Town of which they are Select-Men ; the said Fines or Forfeitures respectively to be recovered in any Court of Common Pleas within the County where either of the said Towns lie.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May* 1734. And continued by Adjournments unto Wednesday the twentieth Day of *November* following.

C H A P. I.

An Act in Addition to an Act Intituled, *An Act for the Settlement and Distribution of the Estates of Intestates.*

4 W. & M.
ca. 2.

Preamble.

WHEREAS in and by an Act made and passed in the fourth Year of the Reign of King William and Queen Mary, Intituled, An Act for the Settlement and Distribution of the Estates of Intestate, " The Judges of Probate
" of Wills, and for granting Letters of Administration of the Estates of In-
" testates, are to settle the Estate both Real and Personal, one Third Part of
" the personal Estate to the Wife of the Intestate for ever, besides her Dower
" or Thirds in the Housing and Lands during Life, where such Wife shall not
" be otherwise endowed before Marriage ; and all the Residue of the Real and
" Personal Estate by equal Portions to and among his Children, and such as
" shall legally represent them, &c." But sufficient Provision is not made for
the Settlement of the Estate on the Grand-Child or Grand-Children, where
one or more of the Children of the Intestate are deceased : For want thereof
considerable Difficulties have arisen and may arise :

For Remedy whereof :

Manner of
settling In-
testate Estates
on Grand
Children.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the several Judges of Probate of Wills and for granting Administration on the Estates of Intestates, where any of the Children deceased in the Life-Time of the Intestate, and left Issue, shall make a full Settlement of the Estate in Manner following, viz. On the Grand-Children, that Part which their deceased Father or Mother would have had or taken if living at the Time of the Intestate's Decease, and shall settle two Shares or a double Portion on the eldest Son, if any be, and so in the same Manner and Proportion as if the same had descended from their immediate Father or Mother, and shall follow the same Rules as to settling the Lands upon one or more of the Grand-Children, (as the same are capable of making Settlements) according to the Directions of the Law of this Province, viz. An Act made in the sixth Year of King George the first Chap. III. directing to give preference to the Sons.

Proviso.

Provided always, This Act shall not extend to affect the Title of any Estate already settled.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the twenty-eighth-Day of May, 1735.

C H A P. II.

An Act in Addition to an Act Intituled, *An Act for the bearing and determining Cases in Equity*, made and passed in the tenth Year of the Reign of King *William* the third. 10 W. ca 13.

WHEREAS the Conditions annexed unto Bonds and other Specialties, are sometimes for the Payment of Moneys, or the Performance of other Matters and Things at different Times; and when upon the first Breach of such Condition the Bond or Specialty has been put in Suit, it has been apprehended that the Courts of Justice, even in Equity, can chancer such Bonds or Specialties to so much only of the Debt, or other collateral Matters to be performed, as is become due at the Time of the Action brought, whereby the Obligee may meet with Difficulty to recover his Debt as it shall become due : Preamble.

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any Action shall be brought and prosecuted on any Bond or other Specialty with Penalties for the Payment of Sums of Money, Performance of Covenants, Contracts, Agreements, Matters or Things to be done at several Times, and the Plaintiff recover the Forfeiture of such Penalty, the Court shall enter up Judgment for the whole of such Forfeiture, and award Execution only for so much of the Debt or Damage as is due or sustained at that Time; so always that the said Judgment shall stand, and be a Security to the Plaintiff, his Executors and Administrators, for any further and after Payments or Damages he or they may have a just Right to by the Non-Preformance or Breach of the Covenants, Contracts, Agreements or Things, in such Bonds or other Specialties contained; and may have a Writ or Writs of *Scire Facias* on said Judgment, from such Courts where the same was obtained, against the Defendant, his Heirs, Executors, or Administrators, suggesting other and further Damages sustained by the Non-Performance of Breach of such Covenants, Contracts and Agreements; and to summon him or them to shew Cause why Execution should not be awarded upon said Judgment for other and further Damages, as set forth in the Writ, and made out to the Court; upon which the said Court shall proceed as aforesaid, and so *toties quoties*, or as often as such Damages shall accrue, and to be sued for as aforesaid. Judgment to be made up for the whole Penalty of Bonds where there are divers Payments &c.

Writs of Scire Facias to be issued thereon from Time to Time as any Thing becomes due.

C H A P. III.

An Act for employing and providing for the-Poor of the Town of *Boston*.

WHEREAS the Town of Boston is grown considerably populous, and the Idle and Poor much increased among them, and the Laws now in Force relating to them, not so suitable to the Circumstances of the said Town, which are different from those of the other Towns in the Province : Preamble.

Therefore,

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from henceforth at the anniversary Town Meeting in March, for the Choice

Twelve Overseers of the Poor to be chosen in Boston, and twelve Wards to be appointed.

Choice of Town-Officers, the Town of *Boston* are, and shall be hereby empowered to chuse twelve Overseers of the Poor, who shall be chosen for twelve several Wards respectively, into which the said Town is or shall be divided, each Overseer to have the more especial Care of his particular Ward, yet so as not to exclude the Authority of any other Overseer as there may be Occasion; which Overseers shall visit their respective Wards, whensoever they may judge there is Occasion, at least once in every Month; and shall also once in every Month assemble together to consider and determine of the most proper Methods for the Discharge of their Office.

Preamble.

And whereas the Poor of the said Town may upon the decay of Trade become still more numerous, and want Means to employ and set themselves to Work in any settled or constant Manner, or by ill Habits become idle and slothful and very burthensome to the Town:

Town of Boston impow-
ered to erect a
Work-House
for the Poor.

Be it enacted by the Authority aforesaid. That in such Case, or whenever the said Town of *Boston* shall, at a legal Town Meeting for that Purpose duly warned, judge it necessary or convenient to erect, provide or endow an House for the Reception and Employment of the Idle and Poor of the said Town, they the said Town are, and hereby shall be authorized and empowered so to do; which House shall be under the Regulation of the Overseers of the Poor, to be annually chosen as aforesaid; and erected, provided for, continued or discontinued, as the said Town shall find or judge their Circumstances require: And the said Town are hereby authorized to make Purchases and receive Donations for endowing the said Work-House, to the Value of *three Thousand Pounds* per Annum; and to sue and be sued in all Affairs of said House; the several Donations to be always applied according to the Will of the Donors.

Overseers of
the Poor to
regulate it.

The House
may be en-
dow'd.

Overseers to
appoint the
Masters of the
House.

And be it further enacted, That the Overseers of the Poor of the Town of *Boston*, for the Time being, shall have the Inspection, Ordering and Government of the said House, with Power of appointing a Master or Masters, and one or more Assistants for the more immediate Care and Oversight of the Persons received into or employed in said House: Which Overseers at their monthly Meetings shall have Power to make Orders and By Laws for the better and more decent regulating the said House; which Orders shall be binding till the next Town-Meeting, to which they shall exhibit them, and when approved by the said Town at a legal Meeting, shall be obligatory, until revoked by the said Town.

Impowered
to make By-
Laws to be
approv'd by
the Town.

Overseers to
send idle and
indigent Per-
sons to the
Work House.

And be it enacted by the Authority aforesaid, That each one of the Overseers aforesaid shall have Power to send any idle and indigent Person or Persons to the said House for Entertainment and Employment for the space of twenty-four Hours; and any two of the said Overseers shall have Power to continue or send to said House such Person or Persons, till discharged by the major Part of said Overseers at a monthly Meeting: Which Person or Persons the Master or Masters and Assistants are hereby required to receive and employ accordingly.

And to bind
out the Chil-
dren of such
as are not ra-
ted for their
Personal Es-
tate.

And whereas there are sometimes Persons rated to the publick Taxes, who are notwithstanding unable or negligent to provide Necessaries for the Subsistence and Support of their Children:

Be it enacted, That the Overseers shall have the same Power of binding out into good Families, the Children of such, as where the Parents are rated nothing; provided such Persons are not rated for their personal Estate or Faculty.

And for as much as there is great Negligence in sundry Persons as to the instructing and educating their Children, to the great Scandal of the Christian Name, and of dangerous Consequence to the rising Generation:

And also such
Children as
are not taught
to read.

Be it further enacted, There where Persons bring up their Children in such gross Ignorance, that they do not know, or are not able to distinguish the Alphabet or twenty-four Letters at the Age of six Years, in such Case the Overseers of the Poor are hereby empowered and directed to put or bind out into good Families,

Families, such Children, for a decent and Christian Education, as when Parents are indigent and rated nothing to the publick Taxes : unless the Children are judged incapable, through some inevitable Infirmity.

And in as much as the Division of the Town of Boston into twelve Wards, and Assignment of each Ward to the more immediate Care of a particular Overseer, will give the aforesaid Overseers Opportunity of a more exact Knowledge of the Town, and all Intruders into it :

Be it enacted by the Authority aforesaid, That the aforesaid Overseers of the Poor in the Town of Boston, be and they hereby are, impowered to warn any and all Intruders, or others, who are not Inhabitants, to depart the Town ; and in Case of refusal or neglect, to proceed in the same Manner, and with as full Power, as the Select-Men of said Town, by Law, may or can : And the Constables are hereby required to observe and yield ready Obedience to the Orders and Directions of the Overseers aforesaid, by Virtue and in Consequence of this Act.

Overseers of the Poor to warn Intruders out of the Town.

C H A P. IV.

An Act directing how Meetings of Proprietors in Wharves or other Real Estate besides Lands may be called.

WHEREAS the Laws of this Province have impowered not only the Proprietors of common Lands, but of any other Estate or Interest to sue or be sued ; but no Direction being given how a Meeting of such Proprietors may be called : And whereas by Reason of the Death or Refusal of any or the major Part of the Committee impowered to call Meetings of Proprietors in Wharves, or other Real Estates, the said Proprietors may be under Difficulties :

Preamble.

For remedying the same :

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as five or more of the Proprietors in any Wharves or other Real Estate or Interest whatsoever, shall judge a Proprietors Meeting necessary, and shall make Application to a Justice of the Peace within the County where such Real Estate or Interest lies, such Justice is hereby impowered to grant a Warrant for such Meeting, directed to one of the Proprietor's asking the same, requiring him to notify the Proprietors of the Meeting, and the Time and Place for the same : Which Notification shall be in writing posted up in some publick Place within the Town where such Estate lies, fourteen Days before the Time appointed for such Meeting ; and such and so many of the Proprietors as shall assemble and meet together accordingly, shall have Power, by a major Vote of the Proprietors present, to chuse a Clerk to enter all Votes and Orders that shall from Time to Time be made at such Meetings ; and shall be sworn to the faithful Discharge of his Office ; and agree upon any other Method of calling Meetings ; also to chuse a Committee for managing the Affairs of the Propriety ; and also to pass all Orders and Rules for the further managing, improving and ordering such Estate or Interest as they shall agree : The Voices always to be collected according to the Interest, where the same is known ; and no other Affair to be acted at such Meeting, but what is express'd in the Warrant and Notification of such Meeting.

A Justice of the Peace to call a Meeting of Proprietors of Wharves upon Application.

And be it further enacted, That when it shall happen Suit shall be brought against any Proprietors in any Real Estate besides Lands, the Plaintiff bringing forward such Suit, shall cause the Clerk of such Propriety or some principal Proprietor in such Estate, to be served with a Copy of the Writ or Summons, at least thirty Days before the Day of the sitting of the Court to which the same shall be returnable.

When Suit is bro't against the Proprietors the Clerk to be served.

C H A P. V.

An Act in Explanation of and further Addition to the Act
 § W. ca. 3. for making Lands and Tenements liable to the Payment
 of Debts.

Preamble.

*W*HEREAS some Doubt has arisen, whether the Right which the
 Mortgager hath in Equity to redeem such Land as he has mortga-
 ged, may be legally taken by Capias or Attachment upon mean Pro-
 cess, or by Execution, for satisfying or paying the Debts of the Mortgager :

For removing whereof :

Rights of re-
 deem-
 ing
 Mortgages
 liable to be
 taken by the
 Creditor of
 the Mortga-
 ger.

Be it enacted by his Excellency the Governour, Council and Re-
 presentatives in General Court assembled, and by the Authority of the
 same, That such Rights in Equity of redeeming mortgaged Lands heretofore
 have legally been, now are, and hereafter shall be liable to be taken by Capias
 or Attachment upon mean Process, and by Execution upon Judgment recovered
 for the Payment of the just Debts of the Mortgager, and the Person at whose
 Suit the said Right by Equity of redeeming such Mortgaged Lands is taken in
 Execution, shall have the same and as full and ample Right and Power of re-
 deem-
 ing such Lands as the Mortgager himself had or ought to have, an Acknow-
 ledgement of Satisfaction in the Margin of the Record of such Mortgages, by the
 Mortgagee or his Heirs, shall be as sufficient a Discharge thereof to the Creditor
 who hath redeemed or shall hereafter redeem the same, or to his Heirs, as it
 would have been to the Mortgager himself or his Heirs.

Overplus to
 be returned
 and paid to
 the Debtor.

Provided, That if the said Right shall by Apprizement in due Form of Law
 happen to exceed the Sum to be levied with the necessary Charges, the Overplus
 shall be paid by the Creditor to the Debtor, within three Months after levying
 the Execution or Publication of this Act.

Executions
 hereon to be
 enter'd in the
 Registry of
 Deeds.

Provided also, And be it further enacted by the Authority aforesaid,
 That all Executions that shall hereafter be levied on Lands or Tenements, and
 the Proceedings thereon, shall at the Charge of the Creditor, within three Months
 after such levying, be enter'd in the Office of the Register of Deeds for the
 County where such Lands lie.

Debtor al-
 low'd a Year
 to redeem his
 Right.

And it is further provided and enacted, That the Debtor whose Right
 in Equity as aforesaid is taken by Execution as aforesaid, shall have Liberty for
 the space of one Year next after levying such Execution, of redeeming such his
 Right by paying the full Sum levied by Execution on such Right, with lawful
 Interest, and all Charges arising thereon, and such other Sum or Sums as the
 Creditor, at whose Suit the Execution was levied, shall have paid to the Person
 or Persons to whom it was before mortgaged, or to the Mortgager himself.

Creditor to
 have a good
 Title to the
 Land.

And it is further enacted, That such Person or Persons (at whose Suit
 such Lands or Right by Equity of redeeming any mortgaged Lands, have been,
 are, or shall be taken by Execution as aforesaid) shall be as legally and fully in-
 titled to the said Lands or Right of redeeming the Mortgage or Mortgages thereof,
 as the original Mortgager at the Time of levying the Execution was ; and the
 said Lands or Right of redeeming the same shall be and remain to the said Cre-
 ditor, and his Heirs and Assigns for ever, unless redeemed by the Mortgager
 within one Year as aforesaid.

Collectors of Taxes. Original Summons.

28.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty eighth Day of *May* 1735. And continued by Adjournments to Wednesday the nineteenth Day of *November* following.

Preamble.

C H A P. I.

An Act to empower the Collectors of Taxes to require Aid.

4 G. 2. ca. 1.

WHEREAS the Collectors of the Rates and Taxes oft-times labour under Difficulty in collecting from diverse Persons the Sums assessed on them, and sometimes are prevented ever collecting the same, for that the Law doth not empower the Collectors to require and take Aid to assist them in distreining for the Rates committed to them to collect, and apprehending Persons who refuse to pay the same; which is to the publick Damage:

Collectors of Taxes im-
powered to demand Aid.

For Remedy whereof:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if any of the Collectors of the Province, County, Town and Precinct Rates and Taxes, when in the Execution of their Office, shall be hindred and impeded in collecting the Rates and Taxes committed to them, it shall be lawful for such Collectors, if Need be, to require some meet Person or Persons to aid and assist them therein. And that all Persons so required that shall refuse their Aid and Assistance, and shall be convict thereof, before one or more of His Majesty's Justices of the Peace in the County where the Offence is committed, shall pay a Fine to be disposed of to the Use of the Poor of the Town where the Offence may arise, not exceeding *forty Shillings*, at the Discretion of the Justice or Justices according to the Circumstances of the Offence; provided that it appear to the said Justice or Justices that the Aid so demanded as aforesaid was necessary.

Penalty for refusing to give Aid.

And if the Person so convict will not pay his Fine, the Justice or Justices may upon refusal thereof, order such Person to the common Goal of the County, there to remain a close Prisoner for the space of forty-eight Hours, or order him to be set in the Stocks for the space of two Hours.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-sixth Day of *May*, 1736. And continued by several Prorogations unto Wednesday the twenty-fourth of *November* following.

C H A P. I.

An Act for making more effectual Provision for the Service of Original Summons upon mean Procefs.

WHEREAS in and by an Act made and passed in the thirteenth Year of the Reign of His Majesty King William the third, it is provided, "That original Procefs may be by Summons, Capias or Attachment", and some Disputes have arisen with Respect to the Manner of serving such Summons, which hath been attended with many Inconveniencies:

Preamble.

For Remedy whereof:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Service of an original Summons upon any Person, either in his private Capacity, or in the Capacity of Executor or Administrator, or any other Qualification whatsoever, shall be as good and valid in Law, to all Intents and Purposes whatsoever, by an attested Copy of such Summons being left by the Officer

Copy of an original Summons left at the Defendant's House to be a sufficient Service.

High-Ways. Town Inhabitants.

at the House or usual Place of Abode of the Defendant, at least fourteen Days before the sitting of the Court, as if he had been served therewith in his own Person.

Provido.

Provided, That if the Defendant against whom such Suit is brought, be out of the Province at the Time of such Service, he shall have the same Benefit as to a Continuance of the Action, as is by Law provided in Suits where Goods and other Estate is attached.

C H A P. II.

5 W. & M.
ca. 8.

An Act in Addition to an Act Intituled *An Act for High-Ways*.

Preamble.

WHEREAS in and by an Act Intituled, An Act in Addition to an Act Intituled, An Act for High-Ways, made and passed in the first Year of the Reign of His present Majesty, It is enacted, "That no private Way or Ways laid out by the Select-Men of a Town shall be esteemed private Ways for such Town, nor committed to Record, unless such Town at their annual Meeting in March, shall by a major Vote allow and approve thereof: " But no Provision is made for applying for Remedy to the Justices of the General Sessions of the Peace when any Town unreasonably refuses to allow and approve of any private Way laid out as aforesaid and to put the same on Record; which may be very detrimental to particular Persons desiring the same:

For Remedy whereof:

Persons ag-
grieved by
any Towns
refusing to
allow a pri-
vate Way,
may apply to
the General
Sessions for
Relief.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same; That when any Town shall unreasonably refuse or delay to allow and approve of any private Way laid out by the Select-Men, and to put the same on Record, that then and in such Cases any Person or Persons who think themselves aggrieved hereat, may have Liberty to make their Application to the Court of General Sessions of the Peace held for that County in which the Way lies (provided it be within twelve Months from the Refusal or Delay of said Town) who are hereby authorized and impowred by a Committee of disinterested Persons whom they shall appoint, to lay out, or cause to be laid out, such particular or private Ways within or for such Town as may be petitioned for as aforesaid, so as no Damage be done to any particular Person in his Land or Propriety, without due Recompence to be made, either by the Town if it be of general Benefit, or otherwise by such of the Inhabitants as have the Benefit thereof, and desire the same, as shall be adjudged and ordered by the Justices in their Sessions as aforesaid; and said Court are hereby authorized and impowred to inquire into the Damages by a Jury, to be summoned for that Purpose by the Sheriff or Coroner, as the Case may require, and shall make up Judgment with Respect to the Damages according to the Verdict of that Jury, which Judgment shall be final.

C H A P. III.

13 W ca. 10.

An Act in further Addition to an Act directing the Admission of Town Inhabitants, made and passed in the thirteenth Year of the Reign of King William the Third.

No Strangers
to be enter-
tained in a
Town above
twenty Days,
without giv-
ing Notice to
the Select-
men, &c.

BE it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the Inhabitants of the several Towns within this Province, who shall receive admit and entertain any Person or Persons not being Inhabitants of such Towns, either as Inmates, Boarders or Tenants in the House where such Person dwells, or in any other House of his whatsoever, within this Province,

Preventing of Theft.

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Province, or under any other Qualifications for more than the space of twenty Days, and shall not in writing under their Hands, give an Account to one or more of the Select-Men, or the Town Clerk of such Town, of all such Person or Persons so received, admitted or entertained by them, with the Time they first received them, and the Place from whence they last came, together with their Circumstances as far as they can, shall for every such Neglect, forfeit and pay the Sum of *forty Shillings*, to be recovered by Bill, Plaint or Information, before any Justice of the Peace, or in any of His Majesty's Courts of Record within this Province; the one Half of the said Fine to be employed to and for the Use of the Poor of the Town where such Offence shall be committed, the other Half to him or them that shall inform and sue for the same; and they shall be liable to answer all Charges that may arise in the said Town, by receiving and entertaining such Person or Persons as aforesaid, to be recovered by the Town Treasurer, or Select-Men where no Town Treasurer is appointed, who are hereby respectively impowred to bring an Action accordingly.

Penalty.

And be it further enacted by the Authority aforesaid, That all Cost and Charges arising by warning any such Persons as are not Inhabitants out of Town, entering the Caution, or carrying them out of Town, shall be defrayed and paid by those who received and entertained such Person or Persons in their Houses as aforesaid, and shall be recovered by the Town Treasurer, or Select-Men, where no Treasurer is appointed, who are hereby respectively impowred to bring an Action accordingly.

Charge of warning Persons how to be paid.

And the Town Treasurer or Select-Men of the respective Towns in this Province, are hereby directed and ordered, before they bring their Action, to exhibit to such who receive and entertain any Person or Persons in their Houses as aforesaid, an Account of the Charge arising thereby; and upon refusing to pay the same within five Days, they shall be liable to pay said Charge, and be deprived of any Benefit by their Notification, tho' given within the twenty Days as aforesaid.

Account of Charge to be exhibited by the Town-Treasurer or Select-Men.

C H A P. IV.

An Act for the more effectual preventing and punishing of Theft.

4 W. & M. ca. 6.

WHEREAS the Punishments already provided by Law against stealing, have proved ineffectual, and even those that have suffered the Penalty in such Cases, have been so bold and hardy as to perpetrate their Wickedness a second and even a third Time:

Preamble.

For the more effectual preventing whereof;

Be it enacted by His Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That from and after the first Day of May next, if any Person who stands convict upon Record, either before a Justice of the Peace, or in any Court of General Sessions of the Peace within this Province for stealing, shall after that presume to steal any Money, Goods or Chattels, to the Value of *forty Shillings* lawful Money, and be thereof convict by due Course of Law, before the Court of Assize and General Goal Delivery, holden within any of the Counties of this Province, he or they for such Offence, shall, besides paying treble the Value of such Money, Goods or Chattels so stolen, to the Party injured, together with Cost and Charges of Prosecution, be set upon the Gallows for the space of one Hour, with a Rope about his Neck, and one End thereof cast over the Gallows, and be severely whipt, not exceeding thirty Stripes.

Second Theft to be punished by sitting on the Gallows & whipping.

And be it further enacted by the Authority aforesaid, That if any Person convicted of a second Theft, in Manner as aforesaid, shall presume a third Time to steal any Money, Goods or Chattels, to the value of *three Pounds* lawful Money, and be thereof convict by due Course of Law, he shall be adjudged to suffer the Pains of Death, without Benefit of Clergy.

Third Theft to be punish'd with Death.

C H A P.

C H A P. V.

An Act for the better Regulating of the Service of Executions, as well by Sheriffs as Coroners, more especially in the remote Counties of the Province.

Preamble.

WHEREAS the Superiour Court of Judicature, Court of Assize and General Goal Delivery, sits but once in the Year, in many of the Counties of this Province, so that Executions upon Judgments obtained in those Counties (at the Superiour Court) are returnable but once a Year, whereby the Creditor is or may be kept for a long Time out of his just Debt, while in the other Counties of the Province the Writs are returnable every six Months :

Executions to be returnable in six Months.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, the Clerks of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, are hereby authorized and directed to make all Executions on Judgments obtained at the said Courts in such Counties where the said Court sit but once in the Year, returnable into the Clerk's Office, at the End of six Months from the Date thereof ; and the Clerks of said Courts are further authorized upon the return of such Execution, to renew or make out an alias Execution for the whole, or the remainder, as the Case may be returnable, at the next Superiour Court, to be held in and for such County.

Alias Executions then to be made out in Case.

And whereas it has been thought warrantable for the Sheriff or Coroner that have, by Virtue of Executions to them committed, after they have taken the Whole or Part of the Debt, to detain the same from the Creditor until the Return of the Execution :

For Remedy whereof :

Money levied by Execution not to be detained in the Officers Hands

Be it further enacted by the Authority aforesaid, That when and so often as any Sheriff or Coroner shall have levied or taken the Whole or Part of the Debt, by Virtue of the Execution, he shall within twelve Hours after the Receipt of said Money, deliver the same to the Plaintiff, Creditor, or any Person authorized by him, upon Demand being made thereof in the Town where the Officer dwells : And in Case the Demand is made in another Town in said County, then he shall be allowed forty eight Hours to pay the same : And upon his Neglect or Refusal as aforesaid, shall forfeit to the Creditor, treble the lawful Interest of the Sum so taken and detained by the Sheriff or Coroner, being convicted thereof, before the Court where the Writ of Execution is returnable.

Penalty for detaining it when demanded.

C H A P. VI.

An Act obliging the Coroners within the several Counties of this Province to give Security for the due Performance of their Office.

12 W. ca. 6.

Preamble.

WHEREAS by Virtue of several Acts or Laws of this Province, the Coroners of the Counties are enabled in some Cases to serve and execute Writs in Civil Actions, as well original as judicial, but are not obliged to give Bond for the faithful Discharge of that Trust ; whereby the Creditor or Plaintiff in such Process may be in Danger of suffering Damage :

Coroners to give Bond before they serve Writs.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the twenty-fifth Day of March, which will be in the Year of Our Lord One Thousand seven Hundred and thirty seven, no Coroner shall have Authority to serve any Process or Writ, original or judicial,

Rates and Taxes.

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judicial, tho' to him directed, until such Time as such Coroner shall have given sufficient Security, for his faithful Behaviour, in the serving and executing all such Writs as aforesaid, as shall be committed to him, pursuant to the Laws of this Province, to the Satisfaction of the General Sessions of the Peace in the County where such Coroner lives; the Bond to be made payable to the Treasurer of such County, for the Use and Benefit of the Person or Persons that may be injured by the Failure of the Coroner in that Behalf.

And be it further enacted by the Authority aforesaid, That the several Coroners within this Province shall be answerable in the Law for their respective Deputies, in the same Manner that the Sheriffs within this Province are answerable by Law for their respective Under-Sheriffs and Deputies, with Respect to the due Execution of their Office.

Coroners answerable for their Deputies.
12 G. ca. 4

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the twenty-fifth Day of *May*, 1737. And continued by Prorogation and Adjournments unto Wednesday the thirtieth Day of *November* following.

C H A P. I.

An Act in Addition to an Act Intituled, An Act directing how Rates and Taxes, to be granted by the General Assembly, as also County, Town and Precinct Rates shall be assessed and collected.

4 G. 2. ca. 1.

WHEREAS in and by an Act made and pass'd by the Great and General Assembly, in the fourth Year of His Majesty's Reign, it was provided, " That when and so often as the Treasurer of the Province shall send out his Warrant of Distress against any defective Constables, Sheriff or Under-Sheriff, the Officer executing the same, shall distrain and levy the Lands or Tenements of said defective Constable, Sheriff or his Deputy for their or any of their Defaults, in not collecting or not paying into the Treasury, any Sum or Sums of Money, which ought to be by them collected, levied and paid in as aforesaid, and cause due Apprizement to be made of any Houses or Lands so levied, by the Oath of two or three Freeholders in the same County, (which Oath any Justice of the Peace is hereby impowred to administer) and after Apprizement to make Sale of such Houses and Lands, and give good and lawful Deed or Deeds for the same;" which Apprizement and Sale, not being sufficient to secure the Province, County or Towns where such Lands or Tenements lie :

Preamble.

For Remedy whereof:

Be it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when and so often as any Warrant of Distress shall be sent forth by the Treasurer of the Province, or Treasurer of any County, Town or Precinct, to the Sheriff or his Deputy, or to the Coroner, to levy the Lands or Tenements of any defective Constable, Sheriff or Deputy, in such Case it shall be lawful for the Officer executing such Warrant of Distress, upon Apprizement made as aforesaid, to make Sale of such Houses and Lands to the highest Bidder, and give good and lawful Deed or Deeds for the same; having first given publick Notice of Time and Place of Sale at least thirty Days in the Town where such Lands or Tenements lie, as also in the two adjacent Towns: And in Case the Produce of such Houses or Lands shall not satisfy the Sum or Sums mentioned

Houses and Lands of defective Constables, &c. taken on Execution to be sold.

in

Proprietors of Townships.

And if not
sufficient the
Body of such
Constable, &c
to be taken.

in said Warrant or Warrants of Distress, together with reasonable Charges arising thereon, then the Treasurer sending forth such Warrant shall issue an alias Execution or Warrant for such remaining Sum or Sums; and the Officer executing the same, for want of Estate, shall take the Body of such defective Constable, Sheriff or Deputy, and him commit unto his Majesty's Goal in the County whereto he belongs, until he shall pay the same.

C H A P. II.

12 G. 2 ca. 1.

An Act to enable the Proprietors of the several Townships lately granted by the General Court to raise Moneys for defraying the Charges of settling the same.

Preamble.

WHEREAS the Proprietors or present Possessors of several Townships granted by this Court, have passed Votes for the raising several Sums of Money upon their Rights or Lots, to defray the necessary Charges of bringing forward the Settlement of the said Townships; which Votes have not been complied with by the several Proprietors, nor is there any Method as yet prescribed to render the said Votes effectual, or other Votes which the Proprietors may hereafter make:

Lands of delinquent Grantees in the new Townships to be sold, in Case.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any Person or Grantee of such new Plantation or Township already granted by this Court where the Condition of the Grant is not fulfilled, shall neglect or delay to pay the Treasurer or Committee of such Township such Sum or Sums of Money, as shall be from Time to Time voted to be raised on their Lands or Rights for thirty Days after such Rate or Tax is made and published in the Shire Town of the County where such Lands lie, and in the Town where the Clerk of such Proprietors shall live, as also in such other Town or Towns as have heretofore been, or as the said Proprietors shall appoint, for the notifying of Meetings; and in thirty Days after, the Grantee or his Assigns may be notified thereof by advertising the same in one or more of the News-Letters; that then the Committee chosen by such new Plantation or Township, or the major Part of them, may and hereby are fully empowered at a publick Vendue (Notice thereof in the publick Prints as aforesaid being given) to sell such delinquent Proprietors Lots and after Rights in said Townships, to such Person or Persons as may appear to give most for the same, and will give Bond to the Committee, or other Person appointed by the General Court to take Bond for the Performance of the Conditions of the original Grant, and the original Grantee shall have his former Bond given up and delivered him if he desire the same; the Money arising on such Sale to be applied for the defraying such delinquent Proprietors Rate or Tax; and the Overplus, if any there be (after all Charges arising about the same are subducted) shall be paid, the one Half to the Treasurer of said Township for the general Use and Service of the said Township, and the Residue to the said delinquent Proprietor, his Heirs or Assigns.

Disposition of the Produce of such Sale.

Provido.

Provided always, That if such Proprietors are not Inhabitants of this Province, that then there be reserved to them, their Heirs or Assigns, a Liberty of Redemption of such Rights, they paying the Purchaser or Grantee, or their respective Heirs, within six Months, such Sum as the Lands sold for, with the Costs arisen by Improvement made thereon, and double Interest, until the same be redeemed.

Provido.

Provided also, That where any Grantee has brought forward a Settlement, and is in the actual Possession of his Right, that then and in such Case so much only, and no more, of his Right shall be sold as may be sufficient to defray such Proprietors Rate, and the Charges arising on the Sale.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1738. And continued by Prorogations unto Wednesday the twenty-ninth Day of *November* following.

C H A P. I.

An Act in Addition to an Act made in the eleventh Year of His Majesty's Reign, Intituled *An Act to enable the Proprietors of the several Townships lately granted by the General Court, to raise Moneys for defreying the Charges of settling the same.*

11 G. 2 ca. 2.

WHEREAS in and by said Act Provision is only made for the enforcing the Payment of such Sum or Sums of Money as shall be from Time to Time hereafter voted to be raised, which not being sufficient to answer or effect the End proposed : Preamble.

We it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when any Grantee or Proprietor of such new Plantation or Township, which is already or that shall hereafter be granted, where the Conditions of the Grant are not fulfilled, shall neglect or delay to pay unto the Treasurer or Committee of such Township, such Sum or Sums of Money as by the Proprietors thereof have heretofore been voted to be raised, as well as those that hereafter shall be voted to be raised upon their Lands or Rights, for thirty Days after such Rate or Tax is made or published as in and by said Act is directed, and the Sale be notified in the *Boston Gazette* twenty Days before the same be made : The Committee chosen by such new Plantation or Township, or the major Part thereof, are hereby fully impowred to proceed in the Sale of such delinquent Proprietors Lands, as in and by said Act is already made and provided. Lands of delinquent Proprietors in the new Towns to be sold for paying Taxes.

C H A P. II.

An Act for the more effectual obliging of Executors to Inventory the Estate of their Testators.

2 A. ca. 5.

WHEREAS notwithstanding the Provision by Law heretofore made, Executors many Times refuse to Inventory the Estate of their Testators, to the great Disadvantage and Injury of the Creditors and Legatees of the Deceased : Preamble.

We it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That every Executor that hath or shall take that Charge upon him, and against the Tenor of the Law in that Case provided, shall hereafter neglect to give in a full and true Inventory of the whole Estate of the Deceased, so far as is then come to his Hands or Knowledge, being duly served with a Citation from the Judge of the Probate for that Purpose, shall stand chargeable with all the Debts and Legacies of his Testator, as his own proper Debts ; and over and above the Penalty already provided, shall forfeit the Sum of *One Hundred Pounds* a Month, for every Month's Neglect thereof ; to be recovered by any uncertain or residuary Legatee of the said Testator, by Action of Debt, Bill, Plaint or Information in any Court of Record, and to be equally divided between the said uncertain and residuary Legatees, excluding such Executor from any Part thereof. Executors to give in an Inventory. Penalty of £.100 for each Months Neglect.

Weights and Measures.

C H A P. III.

An Act in further Addition to an Act, Intituled *An Act for the due Regulation of Weights and Measures*, made in the fourth Year of their late Majesties King *William* and Queen *Mary*.

W. & M.
ca. 14.

Towns to be
furnished with
Wine Mea-
sures.

Standards of
Weights and
Measures to
be tried anew.

Penalty.

Proviso for
County Stan-
dards.

Town Sealers
to issue out
their Warrants
for bringing
Weights and
Measures to
be sealed.

Penalty for
Sealers or
Constables
Neglect.

Penalty for
not bringing
in Weights &
Measures to
be sealed.

BE it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority aforesaid, That each Town within this Province shall within six Months next after the Publication of this Act, be further provided with one Wine Gallon and one Wine Quart, to be kept and used only as Standards in such Towns.

And the Select-Men of every such Town, whose Standards of Beams, Weights and Measures have not within three Years last past been tried and proved by the Province Standards, shall on or before the first Day of *June* next, send all the Beams, Weights and Measures, which such Town is, either by this or any other former Act, obliged to keep as Standards, into the Province Treasury, and there have them tried, proved and sealed as the Law directs, on Penalty of forfeiting the Sum of *fifty Pounds*; one Moiety to his Majesty towards the Support of the Government within this Province, and the other Half to him or them who shall inform and sue for the same. And every Town shall once in every five Years have their Standards tried and proved by the publick Standards, on Penalty of forfeiting the like Sum of *fifty Pounds* for the Uses aforementioned, The Forfeitures and Penalties aforementioned to be recovered by Action, Bill, Plaint or Information, in any of His Majesty's Courts of Record within this Province, or by Presentment of the Grand Jury, who are required to present all Breaches of this Act.

Provided always, That in Case the Justices of the Peace at their Sessions in either of the Counties within this Province, shall at the Charge of such County procure for Standards, a Beam and all such Weights and Measures, as are directed by Law to be kept in the Province Treasury, and shall once every five Years try and prove them by the Province Standards, any Town may have their Standards tried and proved by the Standards of the County wherein such Towns lie, and it shall be accounted as sufficient and valid as if tried and proved by the Province Standards. The said Standards to be kept by the County Treasurer who shall have the same Fee for proving and sealing Weights and Measures as is by Law allowed to the Province Treasurer.

And be it enacted by the Authority aforesaid, That the Sealer duly appointed in each Town within this Province from Time to Time, is hereby directed and impowered, instead of sending out his Warrant in the Month of *April*, to send forth his Warrant sometime in the Month of *May* annually to the Constable or Constables, requiring him or them to warn all the Inhabitants of such Towns, to bring in both the great and small Beams, Weights and Measures, which they make use of, at such Time and Place as he shall appoint. And such Constables are hereby obliged within six Days, after having received such Warrant, to warn all the Inhabitants, and return to the Sealers a List of all Persons so summoned.

And each Sealer and Constable neglecting his Duty herein, shall for each Neglect forfeit and pay the Sum of *forty Shillings*, to be levied by Distress by Warrant from any Justice of the Peace of the County where the Offence is committed.

And be it further enacted by the Authority aforesaid, That if any Person shall refuse or neglect to bring or send in his Beams, Weights and Measures to the Sealers, in order to be tried and proved by the Town Standard, for the space of seven Days next after legal Warning has been given such Person for that Purpose, every Person so offending shall forfeit and pay the Sum of *forty Shillings*; one Moiety thereof to the Poor of the Town where such Offence shall

Town Inhabitants.

289.

shall be committed, and the other Moiety to the Sealer, who is hereby obliged to inform and sue for the same; to be heard and determined by one or more of His Majesty's Justices of the Peace of the County where the Offence shall be committed.

And whereas it hath been found that the Fees already allowed by Law to the Sealers of Weights and Measures are insufficient:

Be it enacted by the Authority aforesaid, That every Sealer shall be paid by the Owners of all such Beams, Weights, Scales and Measures as shall be by said Sealer found not conformable to the Town Standard *one Penny* over and above what is already allowed by Law, for each Beam, Weight and Measure, and also *one Penny* for every Beam, Weight and Measure which shall be found conformable to the Town Standard upon his trying and proving them.

Additional
Fees to the
Sealer.

And be it further enacted by the Authority aforesaid, That if any Persons shall, after the Publication of this Act, sell or expose to Sale any other Beams, Weights or Measures, than such as have been tried, proved and Sealed according to Law, shall forfeit and pay the Sum of *forty Shillings* for each Offence, for the Uses as last before mentioned, and to be heard and determined by one or more of His Majesty's Justices of the Peace.

Fine for ex-
posing to Sale
Weights
Beams and
Measures not
sealed.

And it is hereby further ordered and declared, That the several Acts for regulat ng Weights and Measures, be publickly read in each Town at their anniversary Meeting in *March*, from Time to Time.

Acts about
Weights and
Measures to
be read in the
March Meet-
ings.

Acts and Laws,

Passed by the Gréat and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1739. and continued by Prorogations to Wednesday the fifth Day of *December* following.

C H A P. I.

An Act in Explanation of fundry Acts heretofore made, referring to the Admission of Town Inhabitants.

13 W. CA. 10.

Notwithstanding the Provision made by the Act pass'd in the twelfth and thirteenth Years of King William the third, (Intituled, An Act directing the Admission of Town Inhabitants) " That no Town shall be obliged to be at Charge for the Support of any Person residing there, unless such Person have continued in such Town (without being warned to depart thence) by the space of twelve Months, or else have obtained the Approbation of the Town, or the Select-Men thereof for his dwelling there: Yet inasmuch as it is not expressly declared in what Way and Manner such Approbation shall be given, some Doubt hath thereupon arisen, whether the Select-Men or Assessors in any Town, their rating or assessing any Person residing there, to Town Charges, and the Inhabitants reaping the Benefit of his Rate, ought not (within the Meaning of the said Act) to have the Force of an Approbation for such Persons dwelling there, so far as to subject such Town to the Charge of his Support in Case he stands in Need; by Means whereof sundry Disputes and expensive Law-Suits have arisen and may arise, unless prevented by this Court: "

Preamble.

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Town shall be obliged to be at Charge for the Support of any Person resident in such Town that hath not continued there so long as to become an Inhabitant, unless he have obtained the Approbation of the

When Persons
to be esteemed
Inhabitants of
any Town.

Their being rated not to make them so.

Town (at a Meeting of the Inhabitants regularly assembled) or the Approbation of the Select-Men (at their Meeting) for his dwelling there; such Approbation of the Select-Men to be given in writing under their Hands or under the Hands of the major Part of them: And no Act of the Select Men or Assessors in rating or assessing any such Person unto any Charges whatsoever, shall subject such Town to any Expences for his Support.

Preamble.

And whereas upon the first Paragraph in the Act made in the fourth and fifth Years of his present Majesty's Reign, and likewise that made in the tenth Year of the same Reign, directing the Admission of Town Inhabitants, which relates to the Charges which the Inhabitants of any Town shall be liable to answer, who shall admit and entertain any Person (not being an Inhabitant of such Town) in his House as Tenant or otherwise, for more than twenty Days, and shall not in writing give such Account to one of the Select-Men or Town Clerk of such Town, as in said Act is prescribed; a Doubt hath arisen whether the Words [all Charges] are to be construed to extend to the Charges of supporting the Persons so received and entertained, which may arise after he shall have continued in such Town so long as to become an Inhabitant:

Be it therefore declared and enacted by the Authority aforesaid, That the Words [all Charges] in the said Paragraph do extend to and include the Charge of supporting the Person so received and entertained after he shall have continued his Residence in such Town so long as to become an Inhabitant; and that such Charges may be recovered at any Time after they have arisen, although the Term limited for the Continuance of the said Act or Acts may (at the Time of bringing the Suit) be expired.

Forbearance of the Select-Men to warn Persons out of Town, not to excuse those that entertain them.

And it is hereby further declared and enacted by the Authority aforesaid, That no Forbearance of the Select-men to warn the Person received and entertained as aforesaid to depart the Town, shall free the Inhabitant of such Town by whom he was admitted and entertained from the Charge aforesaid, who shall violate the said Act by neglecting to give Account or Notice in Manner as is therein directed. And each Person offending (in Violation of said Act) shall be liable to answer the whole of the Charge incurred for the Relief of the Person by him admitted and entertained as aforesaid; and all such Charges are and ought to be understood and accounted to have arisen and accrued to the Town by Reason only of such his Mis-deed and Neglect; any others in like Manner offending notwithstanding.

And that the several Acts aforesaid, are and were intended as herein explained, and ought always so to be understood and put in Execution.

C H A P. II.

An Act in Addition to an Act Intituled, *An Act in further Addition to the several Acts or Laws of this Province relating to the Office and Duty of a Coroner.*

12 W. ca. 6.

Preamble.

WHEREAS some of the Coroners within this Province have of late greatly multiplied their Deputies, and under Colour of such Deputation Persons have pretended to be exempted from Duties and Services whereto by Law they are liable:

Coroners not to appoint Deputies but for particular Occasions.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the first Day of March next, no Coroner shall have Power to appoint a Deputy otherwise than for a particular necessary Occasion, and after such Deputy's Service therein his Power shall cease; and that all Deputy Coroners that may have received a general Deputation before the said first Day of March, their Deputation shall be of no Force or Virtue after the said Term, but shall then cease and be determined, and no Person under Pretence of any such Deputation, shall be excused from any Duties or Services whatsoever which he may by Law be otherwise obliged or liable to.

No Coroners Deputies to be excused from Duties.

C H A P.

Limitation of Actions. Waste on Lands.

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C H A P. III.

An Act for Limitation of Actions and for avoiding Suits in
Law where the Matter is of long standing.

22 G. 2. ca. 3.

25 G. 2. ca. 1.

27 G. 2. ca. 6.

WHEREAS it is highly reasonable, and conduces much to the Peace and Welfare of the Subject that a certain and reasonable Time should be set for the prosecuting of Actions :

Preamble.

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same; That the several Actions hereafter mentioned, which shall be brought at any Time after the End of this present Session of the General Court, shall be commenced within the Time and Limitation hereafter expressed : *That is to say*, Actions of Trespas upon Lands, or *Quare Clausum fregit*, within five Years next after the Cause of such Actions or Suits, and not afterwards ; all Actions for Arreages of Rent, or grounded upon any Lending or Contract without Specialty ; all Actions upon the *Quantum meruit*, or for Service within the space of four Years next after the Cause of such Actions or Suits, and not afterwards ; all Actions of Trespas, of Assault, Menace, Battery, Wounding or Imprisonment ; all Actions for malicious Prosecution within two Years next after the Cause of such Actions or Suits, and not afterwards ; and all Actions of Detinue, Deceit, Trover, Trespas and Replevin for taking away Goods and Chattels, within the Term of three Years, and not afterwards ; and all Actions of Slander, or for Words within one Year next after the Words spoken, and not afterwards.

Time limited for bringing Actions.

Provided however, That each and every of the Actions before mentioned, the Cause whereof hath arisen before the Publication of this Act, may be commenced in the like Term of Time from the Publication hereof, as herein before is set and limited, for bringing such Action or Actions respectively from and after the Cause thereof.

Actions where the Cause arises before the Publication of this Act when to be bro't.

And be it further enacted by the Authority aforesaid, That in all Actions of the Case for slanderous Words ; all Actions of Assault and Battery ; all Actions for false Imprisonment ; and all Actions for malicious Prosecution to be sued or prosecuted in any of the Courts of Record within this Province, if the Jury upon the Trial of the Issue in such Action do find or allow the Damage under *forty Shillings*, the Plaintiff or Plaintiffs in such Actions shall have and recover only so much Costs as the Damage so given amount unto, without any further increase of the same.

Regulation of the Costs in several Kinds of Actions.

Provided always, And be it further enacted, That this Act shall not be understood to bar any Infant *Feme Covert*, Person imprisoned, beyond the Seas, or *non compos mentis*, from bringing either of the Actions before mentioned within the Term before set and limited for bringing such Action, reckoning from the Time that such Impediment shall be removed.

Proviso referring to Infants, &c.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the twenty-eighth Day of *May* 1740. And continued by Prorogation unto Wednesday the twentieth Day of *August* following.

C H A P. I.

An Act to prevent Strip and Waste on Lands, while Suits are depending in the Law for the same.

WHEREAS it often happens that Persons are in Possession of Lands to which they have no Title, and the Owners or Proprietors thereof, are obliged to bring their Writ of Ejectment to recover their Title

Preamble.

Title

Title and Possession of such Land, and the Tenants in Possession, or some others under them, after such Writs are brought, and before final Judgment and Possession is had, make great Strip and Waste to the great Prejudice of the legal Owners and Proprietors, &c.

For Prevention whereof for the future :

No Trees or Poles to be cut down on any Land in Suit.
Penalty.
 Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, if any Person or Persons shall bring forward and prosecute any Writ of Ejectment for the recovery of the Possession of any Lands and real Estate which shall be unjustly withheld from him or them by any Person, and such Person in Possession, or any other Persons whatsoever, during the Time such Writs or Suits are depending in the Law, shall presume to make Strip or Waste by cutting, felling or destroying the Wood, Timber, Trees or Poles standing or growing on such Land sued for, shall for every such Offence, forfeit and pay to the Party aggrieved *twenty Shillings* for every Tree of one Foot Diameter, over and above the true Value thereof ; and for every Tree or Pole under that Dimension cut, felled or destroyed as aforesaid, *twenty Shillings* ; to be recovered by Action, Bill, Plaint or Information in any Court of Record proper to try the same, after the Plaintiff or Defendant has recovered his Title and Possession of such Estate sued for.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1740. And continued by several Prorogations unto Wednesday the twenty-sixth Day of *March* following.

CHAP. II.

4 W. & M.
ca. 9.

An Act in Addition to the several Acts heretofore made relating to common Nuisances.

Preamble.

FOR preventing of Desolation by Fire that may happen by erecting of Potters Kilns and Houses near to dwelling Houses and other Buildings; and the Inconvenience and Mischief that may accrue to the Neighbourhood by the offensive and unwholsome Smoak and Stench proceeding from the Kilns, when on Fire :

Potters Kilns not to be set up in Market or Sea-Port Towns without Licence.

Penalty.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That if at any Time after the Publication of this Act, any Person or Persons shall presume to erect or set up any Potters Kiln or Kiln-House in any Place within either of the Sea-Port or Market-Towns in this Province, other than such Place as heretofore has been used for that Purpose, or as the Select-Men of such Town, with two or more of the next Justices of the Peace shall assign or approve of as most safe and convenient, and least offensive to the Neighbourhood ; every Person and Persons so offending, and being thereof duly convicted before the Court of General Sessions of the Peace, in such County, shall forfeit and pay the Sum of *thirty Pounds*, one third Part of the said Forfeiture to be to the Use of His Majesty for the Support of this Government, one third Part to the Poor of the Town where such Offence shall be committed, and the other Third to him or them who shall inform and sue for the same ; and the Offender or Offenders so convicted shall likewise enter into Recognizance to take down such Kiln House, and in Default of entering into Recognizance as aforesaid, shall be committed to Prison, until he do cause the same to be taken down, or otherwise such Kiln-House shall be taken down by Order of the said Court ; and the Charge thereof be levied by Distress and Sale of such Offenders Goods, returning the Overplus if any be.

CHAP.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the eighth Day of *July*, 1741.

C H A P. I.

An Act to enable Proprietors in common and undivided Lands to chuse Treasurers for their respective Proprieties as Occasion may require.

23 E it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall and may be lawful for the Proprietors of any common and undivided Lands or the major Part in Interest of them that are present at any of their lawful Meetings, whenever Occasion shall require, to chuse some suitable Person for their Treasurer, who shall be sworn before a Justice of the Peace to the faithful Discharge of his Trust; and such Treasurer is hereby impowered to demand, sue for, recover and receive all such Sums of Money, Debts and Dues, as shall at any Time belong to the said Proprietors, or be any Ways due or coming to them, and make Payment thereof again to such Persons, and for such Uses as he shall be lawfully ordered and directed from the Proprietors; and of all this render his reasonable Account on Demand; and such Treasurer shall continue in his Office till the Proprietors shall see Cause to chuse another.

Proprietors of
common
Lands impow-
ered to chuse
Treasurers.

12 A. ca. 2.

Treasurers
Power.

C H A P. II.

An Act to enable Proprietors of General and Common Fields to raise Taxes, &c.

23 E it enacted by his Excellency the Governour, Council and Representatives, in General Court assembled, and by the Authority of the same, That in every Town in this Province where several Allotments of Lands are inclos'd in one general or common Field or Inclosure, and as such improved, or where all the Proprietors of Lands shall hereafter see Cause to inclose, fence and improve the same in such Manner; that in such Case the Proprietors of such general Fields respectively shall be and are hereby fully authorized and impowered in a Proprietors Meeting for that Purpose regularly convened, by a major Vote of the Proprietors then present, (the Vote to be collected according to the Interest of the Proprietors) to agree upon and pass one or more Votes for the raising and collecting such Sum or Sums of Money from Time to Time as they shall judge necessary for the carrying on or managing any publick Affairs relating to such Proprietors; and that they be alike impowered to chuse three or five Assessors for the assessing and apportioning such Sum or Sums so agreed on and voted, upon the Proprietors of such Lands, according to their several Interests therein; and to appoint a Collector or Collectors to gather in and collect the same, which Collector or Collectors shall be and are hereby fully impowered to levy and collect the Sum or Sums so set and apportioned for such Proprietors to pay, in the same Manner as Constables of Towns within this Province are impowered to levy and collect the publick Rates or Taxes, and to pay in the same to the Proprietors or their Clerk, who is hereby impowered to grant Warrants for the levying and collecting such Assessment at such Time as shall be by them appointed for the Payment thereof; and such Clerk shall be accountable to the Proprietors therefor: The Person or Persons so assessing the said Proprietors, and the Collector or Collectors that shall be so appointed for the gathering and collecting the Sum or Sums so granted

Proprietors of
common
Fields im-
powered to
raise Taxes.

12 A. ca. 2.

And to chuse
Assessors and
Collectors

Proprietors or
their Clerk to
grant War-
rants for such
Taxes.

and

Assessors and
Collectors to
be under Oath.

and agreed upon by the said Proprietors to be assessed and collected as aforesaid, shall be under Oath for the true and faithful Performance of their Services respectively, which Oath shall be administered to them as the Law provides for swearing Town Officers.

Aggrieved
Proprietors to
have Liberty
of appealing.

Provided nevertheless, That any such Proprietor who apprehends himself aggrieved or over-rated in the making or apportioning such Assessment, shall have Liberty to apply to the Justices of the General Sessions of the Peace in the respective Counties where such Lands lie for Relief; and in such Case the said Justices are hereby fully impowered to grant Relief accordingly.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the eighth Day of *July*, 1741. And continued by Prorogation and Adjournment unto Wednesday the sixteenth Day of *September* following.

C H A P. III.

An Act in further Addition to the several Acts for the Observation and keeping of the *Lord's-Day*.

4 W. & M.
ca. 8. and
References.

Persons of-
fending a-
gainst this Act
to be bound
over to the
Court of Ge-
neral Sessions
of the Peace.

BE it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the Publication of this Act, when any Person or Persons that shall be found by any one or more of His Majesty's Justices of the Peace loitering, or idly spending his, her or their Time, or unnecessarily assembled or assembling themselves in any of the Streets, Lanes, High-Ways or Commons in any Town or Place within this Province, on the Lord's Day or any Part of it, and being ordered by such Justice or Justices to disperse or retire to his, her or their respective Lodgings, or repair to the publick Worship, shall refuse or neglect so to do, such Justice or Justices shall bind over such Offender or Offenders to appear at the next Court of General Sessions of the Peace for the County where the Offence shall be committed, to answer therefor, and to bind over such Persons as shall be then present, or a sufficient Number of them to give Evidence concerning the same, and shall make a Record thereof, and deliver or transmit such Record to His Majesty's Justices at their next General Sessions of the Peace for such County, who shall thereupon direct His Majesty's Attorney General, or in his Absence such other suitable Person as they shall appoint, forthwith to file an Information against such Offender or Offenders, who being convicted of the aforesaid Offence, either by Verdict or Confession in Court, shall for his, her or their first Offence, forfeit and pay for the Use of the Poor of such Place where the Offence shall be committed, *twenty Shillings*, with Costs of Prosecution, and stand committed until Payment thereof; and for his, her or their second and every other the like Offence the Sum of *forty Shillings* for the Use aforesaid, with Costs of Prosecution, and give sufficient Security for his, her or their good Behaviour till the next Court of General Sessions of the Peace, and stand committed till the same shall be performed.

Penalty upon
Conviction.

Penalty upon
a second Of-
fence, &c.

proviso.

Provided always, That it shall and may be lawful for any Person or Persons convicted as aforesaid, to appeal to the Court of Assize then next to be held in and for such County, the Appellant or Appellants recognizing with sufficient Sureties to prosecute such Appeal there with Effect, as the Law directs.

Ascertaining the Value of Money.

C H A P. IV.

An Act to ascertain the Value of Money, and of the Bills of publick Credit of this Province, granted this present Year for the Supply of the Treasury, and for securing the Credit of said Bills.

17 G. 2. ca. 1.
18 G. 2. ca. 2.
21 G. 2. ca. 1.
22 G. 2. ca. 1.
23 G. 2. ca.
1, 4, 5.

BE it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That from and after the first Day of February next, all coined Silver of Sterling Alloy shall be accounted, paid and taken as lawful Money of this Province at the Rate of *six Shillings and eight Pence* per Ounce Troy Weight, and other Money in the same Proportion, and no otherwise, and all private Trade and Dealings where no other lawful Money or Thing is expressly contracted for shall be intended to be in and for the Money aforesaid.

The Value of Silver Money stated at 6s. 8d. per Ounce.

And whereas the Bills of publick Credit on this Province have been fluctuating and uncertain in their Value, whereby many Mischiefs and Inconveniences have arisen :

For preventing whereof for the future :

Be it enacted by the Authority aforesaid, That the Province Bills emitted for the Supply of the Treasury this present Year, shall be valued and taken at the Rate following, *viz.* Every Bill of *six Shillings and eight Pence*, at the Rate of one Ounce Troy Weight of coined Silver Sterling Alloy, and all other Bills of said Emission at the same Proportion.

Value of Bills of Credit stated.

And be it further enacted, That *six Shillings and eight Pence* of all Debts and Dues to be contracted within five Years from the last Day of March next (Specialties and expresse Contracts excepted) shall be deemed and to all Intents and Purposes adjudged to be equal to one Ounce of coined Silver Sterling Alloy, and shall be accordingly paid with one Ounce of Silver, or with *six Shillings and eight Pence* of the Bills to be emitted for the Supply of the Treasury this present Year (excepting as herein after excepted) or in so much of the Province Bills thereafter to be emitted, as shall be equal to one Ounce of Silver at the Time of Payment, and so in Proportion for a greater or less Sum.

Provided nevertheless, That if the Bills ordered to be emitted this present Year, or other Bills hereafter to be emitted, shall be depreciated or commonly pass at any lower Rate than they are set at by this Act, or by the Act by which such other Bills shall be emitted, that then and in such Case the Justices of the respective Courts shall give Judgment for so much in Silver as the true Debt appears to be, and in Want thereof for so much in said Province Bills, with the Addition of so much more as will make Amends for the depreciating said Bills from their present stated Value, or the Value at which such other Bills shall be stated.

Allowance to be made to the Creditor in Case the Bills be depreciated.

And to the Intent that there may be one certain Rule by which the Justices of the respective Courts shall proceed in making up their Judgments ;

Be it enacted by the Authority aforesaid, That the General Assembly shall once in every six Months determine the Rates that said Bills then commonly pass at in Proportion to Silver and Bills of Exchange payable in London, and in Want thereof it shall be determined by the eldest Councillor for the Time being in each of those Counties where any Member of His Majesty's Council is an Inhabitant, who are hereby appointed a Committee for that Purpose, and to ascertain the said Proportion by a Certificate under their Hands, or the Hands of the major Part of them, which Certificate shall be lodged in the Secretary's Office, and in Case of their Failure, that then the Justices of the Superiour Court of Judicature in their several Terms in the County of *Suffolk* annually shall appoint five able and sufficient Men upon their Oaths, to consider and report the true Value of those Bills as they will produce in Silver or Bills of Exchange to the best of their Judgment, and certify the same into the Secretary's Office ; and the Secretary on Receipt of either of the aforesaid Certifi-

Rule for the Courts proceeding thereon.

cates shall forthwith send attested Copies thereof to the Clerks of the Courts in the several Counties, to be by them laid before their respective Courts for their Direction.

And whereas the purchasing Silver at high Rates, has often brought a Discount on the Bills of publick Credit :

Penalty for giving more for Silver than at the Rate set in this Act.

Be it therefore further enacted by the Authority aforesaid, That whosoever shall at any Time within five Years from the first Day of February next, directly or indirectly by himself or by any other for him, wittingly give, contract or offer to give, receive, contract, or offer to receive more than *six Shillings and eight Pence* in the Bills of publick Credit, ordered to be emitted this present Year for the Supply of the Treasury, for one Ounce of Silver Troy Weight of Sterling Alloy, or proportionably for any greater or less Sum, or more in any other Bills of Credit than (at the Rates at which they shall obtain a Currency) shall be equal to *six Shillings and eight Pence* in the Bills ordered to be emitted this present Year, for one Ounce of Silver, and proportionably for a greater or less Sum, or more than a proportionable Value, whether Payment be made or proposed to be made in Bills or any other Way and Manner whatsoever, he shall forfeit the Sum of *fifty Pounds*, in the Bills ordered to be emitted this Year for the Supply of the Treasury, or equivalent thereto in other Province Bills, or in Silver or Gold ; one Half to His Majesty for the Use of the Province, and the other Half to the Informer, to be recovered by Action of Debt, Bill, Plaint or Information in any Court of Record within the County where the Offence shall be committed, or by Indictment or Presentment of the Grand Jury ; and in every such Prosecution, if the Prosecutor only, or other credible Person (who was Party in such Contract, Trade or Dealing) shall tender his Oath to the Truth of the Matter alledged (unless the Defendant will thereof acquit himself by his Oath) the Prosecutor or such other credible Person as aforesaid, shall be admitted to swear to the Matter of Fact charged upon the Defendant, and that shall be taken for full Evidence against the Defendant, and the Prosecutor or such other Person who shall so testify, shall not be liable to any Fine or Forfeiture he may have incurred by and in the same Contract, Trade, or Dealing ; and if any Person thought probably concerned in any such Contract, Trade or Dealing refuse to be sworn or to give Evidence either before the Court before whom the Trial shall be, or to the Grand Jury, he shall (by the Court who shall require such Oath) be fined such Sum as if he had been convicted of buying Silver contrary to this Act, and shall stand committed till he pay the same, and the Fine shall be in like Manner applied:

Proviso.

Provided, That nothing herein contained shall be construed to restrain the buying or selling of Silver wrought into Vessels or other Things commonly made by Goldsmiths, at a higher Rate than *six Shillings and eight Pence* per Ounce.

C H A P. V.

An Act to alter several Laws that require Appellants to file and produce the Reasons of their Appeal.

Preamble.

WHEREAS it is found by Experience that the Appellant's filing Reasons of Appeal in the Courts of the common Law, is a meer Matter of Form, and gives no Light in the Cause, but many Times occasions vain Disputes upon their Forms, to the needless Charge of the Appellants, and sometimes to the utter Overthrow of their Causes :

No Reasons of Appeal to be given in any Cause.

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That henceforth when any Party shall be aggrieved at the Sentence or Judgment of any Justice, or Court of General Sessions of the Peace, or Inferiour Court of Common Pleas, and appeal to any higher Judicatory, the Appellant

Alewives.

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Appellant shall not be required to file or produce any Writing purporting the Reasons of his Appeal, but the Cause may be entred and tried upon the Appeal without any Reasons filed or produced, as heretofore hath been accustomed: Any Law, Usage or Custom to the contrary hereof in any wise notwithstanding.

C H A P. VI.

An Act in Addition to an Act made to prevent the Destruction of the Fish called *Alewives*, and other Fish.

*W*HEREAS notwithstanding the several Acts made for the Preservation of the Fish, and to give them free Passage up and down the Rivers in their Seasons, yet by Reason of the many Dams erected, and often erecting across such Rivers and Streams where the several Sorts of Fish pass up into the natural Ponds to cast their Spawns, said Fish are diverted in their Passage, to the great Decay and Ruin of such Fishery:

Be it therefore enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That whosoever shall hereafter erect or build any Dam across any such River or Stream where the *Salmon*, *Shad*, *Alewives*, or other Fish usually pass up into the natural Ponds to cast their Spawn, shall make a sufficient Passage Way for the Fish to pass up such River or Stream through or round such Dam, and shall keep it open for the free Passage of the Fish from the first Day of April to the last Day of May annually, and all the Owners or Occupants of any Mill Dam or other Dams heretofore erected and made across any such River or Stream where the Fish can't conveniently pass over, shall make a sufficient Way either round or through such Dam, for the Passage of such Fish at or before the first Day of September next, and after that to keep such Passage Way open from the first Day of April to the last Day of May annually, on Pain that every Person offending in any of the Particulars aforesaid, shall forfeit and pay the Sum of *fifty Pounds* for each Offence.

Provided nevertheless, *Whereas in some of the Rivers or Streams the said Fish do not pass up to spawn in the Times by this Act provided for, that it shall be in the Power of the several Towns wherein such Streams are, or are adjoining, or the Select-Men of such Towns, or the major Part of them, to appoint or order the Times of keeping open such Sluice-Ways, as in their Judgment may be agreeable to the natural Time of said Fish passing up to spawn, so as it does not exceed sixty Days annually.*

And be it further enacted by the Authority aforesaid, That the Owners or Occupants of such Dam or Dams shall allow sufficient Water Passage round through or over such Dams for the Passage of such Fish or their young Spawn in the Season of their going down such Rivers or Streams, on Penalty of forfeiting the Sum of *fifty Pounds* for every Offence.

Provided nevertheless, That whosoever is an Owner or Occupant of such Dam or Dams erected before the Year One Thousand seven Hundred and nine, and by this Act is obliged to make such Passage Way for the Fish as aforesaid, shall after he has effected the same, present his Account of the reasonable Charge thereof to the Court of General Sessions of the Peace of the same County for their Allowance, who are hereby impowered to proportion the several Towns Parts thereof who are advantaged thereby, and order each of said Towns to assess and pay the same to such Owner or Occupant accordingly, and the Owners or Occupants of such Dam shall afterwards maintain such Passage Way at his or their own Cost and Charge.

And be it further enacted by the Authority aforesaid, That it shall be in the Power of any Town at their annual Meeting in *March* to chuse one or more Persons whose Business it shall be to see that the said Passage Ways are open pursuant to this Act, and that said Fish may not be obstructed in their usual passing

15 G. 2. ca. 7.
17 G. 2. ca. 5.
19 G. 2. ca. 2.
23 G. 2. ca.
1, & 4

Preamble.

Passage in
Dams to be
kept open for
the Fish at the
proper Season.

Penalty:

In some
Towns the
Select-men
to appoint
the Season.

Owners of
the Dams to
allow a Pas-
sage.

Charge there-
of to be paid
by those that
have the Be-
nefit.

Towns to
chuse Persons
to see that
this Act be
observed.

Alewives and other Fish.

passing up and down Stream, and to appoint the proper Place or Places for the taking such Fish with Scoop Nets, and to limit the particular Times and Days for the taking the same.

Provido.

Provided also, That this Act shall not be construed so as to affect the Order of this Court, pass'd in *January One* thousand seven Hundred and thirty eight, relating to *Watertown Mill-Dam*.

Disposition of the Fines.

And that the several Fines and Penalties arising by Virtue of this Act, shall be sued for and recovered in any Court of Record proper to try the same, by any Person that shall prosecute and sue for the same, one Half of such Sum to be to and for the Use of the Prosecutor, and the other Half to be to and for the Use of the Poor of the Town where the Offence shall be committed.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the eighth Day of *July* 1741. And continued by Prorogation and Adjournments unto Wednesday the seventeenth Day of *March* following.

C H A P. VII.

An Act in Supplement of an Act Intituled *An Act in Addition to an Act made to prevent the Destruction of the Fish called Alewives and other Fish*.

See 6 Chap. of this present Year.

Preamble.

WHEREAS in and by an Act made in the present Year of His Majesty's Reign, Intituled, An Act in Addition to an Act made to prevent the Destruction of the Fish called *Alewives* and other Fish; the several Towns within this Province are enabled and impowered to chuse one or more Persons whose Business it should be to see that the Passage Ways for Fish (in said Act ordered to be made) be kept open during the Term therein mentioned, that so the Fish may not be obstructed in their usual passing up and down Stream, and to appoint the proper Place or Places for the taking such Fish with Scoop-Nets, and to limit the particular Times and Days for taking the same; but no Penalty is therein ordered to be imposed on such as shall take *Alewives* or other Fish at other Times or Places than such as shall be appointed in Pursuance of said Act:

Penalty for catching Fish with Nets &c. out of Season.

Be it therefore enacted by the Governour, Council and House of Representatives, That whosoever shall presume to take any of the Kinds of Fish in said Act enumerated (whether with Scoop-Nets or otherwise) in any River or Stream within or adjoining to any Town within this Province at any other Place or Time, than such as has been or shall be limited and appointed by any Town in Pursuance of said Act, such Offender or Offenders shall forfeit and pay the Sum of *ten Shillings* for each Offence, one Moiety thereof to be for the Use of the Poor of the Town where the Offence shall be committed, the other Moiety to be to him or them who shall inform and sue for the same before one or more of His Majesty's Justices of the Peace in the same County.

Provided, That this Act be not construed to affect any Person taking Fish in any Town where such Town shall not in Manner as aforesaid appoint the Time and Place for taking the Fish aforesaid.

Hopkinton and Upton Lands.

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C H A P. VIII.

An Act to enable the Trustees appointed in His Majesty's High Court of Chancery to purchase Houses or Lands and improve the same for perpetuating the Charity of the honourable *Edward Hopkins*, Esq; more effectually to secure the Interest of their several Tenants in Possession of their *Hopkinton* and *Upton* Lands, and the Revenue of those Lands to the College and Grammar School at *Cambridge*, according to the true Intent of all Parties at the first Settlement of that Town.

WHEREAS the Trustees appointed in his Majesty's high Court of Chancery to purchase Houses or Lands and improve the same for perpetuating the Charity of the honourable *Edward Hopkins*, Esq; at their Meeting the nineteenth of April 1716, agreed that those Lands should be leased out at the annual Rent of three Pence an Acre for the Term of ninety nine Years, and not exceeding nine Pence an Acre to those Termors their Heirs and Assigns at any Time coming after the Expiration of that Term, and afterwards when the Leases were made for that Term to commence the twenty-fifth of March 1723, as on the one Hand they did not secure to the particular Termors their Heirs and Assigns the Right of renewing their Leases from Time to Time for ever upon an annual Rent not exceeding nine Pence an Acre, to the great disadvantage of the Tenant, so on the other Hand they obliged the Trustees to discharge and save the Tenants from paying any Province Tax for three Quarters of the Premises, to the utter Loss of the Rent therein reserved for the pious Uses aforesaid: Preamble:

We it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That it shall be lawful for the said Trustees, and they are hereby impowered by certain Indentures between them and the Tenants of those Lands to be executed, to confirm the several Tenements in the Tenure of the original Termors or their Assigns, to hold to them their Heirs and Assigns forever, reserving a Rent Charge of one Penny Sterling Money of Great-Britain or equivalent in Province Bills by the Acre, payable the twenty-fifth of March annually in Lieu of the Rent reserved in their respective Leases, till the twenty-fifth of March One Thousand eight Hundred and twenty-three, and three Pence an Acre like Money payable the twenty-fifth of March annually from that Time forward for ever, the Tenants covenanting for themselves their Heirs and Assigns to pay all Province Taxes for their Lands to be rated by this Court from Time to Time for what they are worth above the Rents reserved as aforesaid. New Indentures to be given on Hopkinton and Upton Land.

And whereas the Trustees aforesaid have by an Endorsement on their several Leases granted to the Termors and their Assigns the Right of Common in all their Lands in *Hopkinton* and *Upton* (above twelve Thousand five Hundred Acres designed for the several Tenants and other particular Uses) in proportion to the Quantity of their Lands leased to them, and these Tenants apprehend they can more beneficially improve the said common Lands if divided to every one their Share: Preamble.

Now therefore,

We it further enacted by the Authority aforesaid, That the Trustees aforesaid instead of granting them the Common aforesaid. be impowered by the Indentures aforesaid the better to enable them to pay the Land Tax aforesaid, to give, grant, convey and confirm to the Tenants aforesaid all the Lands aforesaid. in proportion to their Lands leased to them as aforesaid, to hold to them and their Heirs Tenants impowered to divide their Commons.

Heirs

Heirs for ever, that they may either improve the same in Common as was first intended, or divide and severately improve the same as shall seem good to them or the major Part of them upon Advise ment and mature Consideration thereof.

And for the better securing of the several Tenants Estate in the Premises, and more clear Discovery of their respective Interests, and the recovery of the Rents aforesaid :

A Register to
be appointed
for recording
Leases &c.

Be it further enacted, That the Trustees aforesaid shall, and they are hereby impowered to appoint a Register for those Lands, and swear him to the faithful Discharge of his Duty, and from Time to Time upon his Misbehaviour or Failure by Death or otherwise, to substitute and swear another in his Room, who shall keep fair Books of Record, and therein record one of those Leases already recorded by the Register of the County of *Middlesex*, with the mean Conveyances thence down to the present Tenant in Possession, as also a Certificate from the Register of the County of *Middlesex* of all the rest by him recorded, expressing the Lessees Premises Dates and the Terms of Continuance, with all the mean Conveyances down to the present Tenant in Possession; and he shall likewise record all those Leases and mean Conveyances not yet recorded by the Register of the County of *Middlesex*, and all future Conveyances of any of the said Lands: And after the twenty-sixth Day of *April* next no Conveyance of those Houses or Lands, the Revenue whereof goes to the College and Grammar School in *Cambridge*, shall be good to hold the same against any other Persons but the Grantors and their Heirs only, unless the Deed thereof be recorded by the Register aforesaid, who shall take of the Purchasers at the Rate of *eight Pence* Sterling, or equivalent in Province Bills, for every Page of twenty eight Lines, eight Words in a Line for recording the same, and no more: And no Purchaser shall be obliged to record any of these Deeds in the Records of the County of *Middlesex* henceforward.

C H A P. IX.

An Act to limit and direct in suing out Executions upon Judgments of Courts.

Method for
regulating
Executions.

BE it enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That when Judgment shall be given in any Court of Record, the Party obtaining it may sue out Execution thereon at any Time within a twelve Month, and afterwards renew it as often as Occasion shall require; and where any Execution shall be returned without any Satisfaction made, or satisfied only in Part, the Clerk of the said Court within a twelve Month after the Return thereof into the Office, may *ex Officio* renew or make out an alias or Plureis Execution for the whole or the Remainder as the Case may be, till the Judgment be fully satisfied: But if the Party shall neglect to sue out his Execution, Alias or Plureis, within the Times afore limited, he shall sue out a Writ of *Scire Facias*, and cause the adverse Party to be served therewith, or an attested Copy thereof, to be left at his Dwelling or Place of usual and last Abode, seven Days inclusive before the Court's sitting, requiring him to shew Cause, if any he have, why Execution ought not to be done; and upon his Non-Appearance, or not shewing sufficient Cause, the Court shall award Execution for what remaineth, with additional Cost.

Support of Ministers. Incumbrances.

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An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-sixth Day of *May*, 1742.

C H A P. I.

An Act in Addition to the several Acts or Laws of this Province for the Settlement and Support of Ministers. 4 W. & M. ca. 11.

WHEREAS the professed Members of the Church of England have complained that they are unreasonably taxed for the Support of divine Worship in the Manner established by the Laws of this Province, while they and their Families constantly attend the Worship of GOD according to the Usage and Order of the Church of England, either within their own or some neighbouring Town, Parish, or Precinct: Preamble.

Be it enacted by the Governor, Council and House of Representatives, That the Members of the Church of England and their Estates shall be taxed to the Support of the publick Worship of GOD with the other Estates and Inhabitants within the Bounds of any Town, Parish or Precinct, according to the Laws of this Province: And the Treasurer of such Town, Parish or Precinct, as he receiveth any such Tax, shall deliver the Taxes collected of every profess'd Member of the Church of England unto the Minister of the said Church, with whom he usually and frequently attends the publick Worship of GOD on the Lord's Days, which Minister shall have Power to receive, and if need be to recover the same in the Law, to support him in the Place whereunto he is duly designed and sent. Tax of Parsons attending at the Church of England, to be paid their own Minister.

And if by that Means any Deficiency happeneth in the Salary of any Minister settled by the Laws of this Province, such Town, Parish or Precinct within two Months after such Deficiency appeareth, shall make good the same. Deficiency provided for:

Provided nevertheless, That all such professed Members of the Church of England, shall be intirely excused from paying any Taxes toward the Settlement of any Minister or building any Meeting-House, pursuant and according to the Direction and Orders of the Laws of this Province, and utterly debarred from voting any Ways concerning such Ministers or Meeting-Houses. Members of the Church of England excused from Charges towards the Settlement of Ministers, &c.

Provided also, That no Person shall be exempted or his Tax paid over to any Minister of the Church of England, unless such Minister and his Church Wardens shall first certify to the Treasurer of such Town or Parish where he lives, that such Person is a Member of the Church of England, and usually and frequently attends the publick Worship of GOD with them on the Lord's Days as aforesaid. proviso.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1742. and continued by Prorogation and Adjournments unto Thursday the eighteenth of *November* following.

C H A P. II.

An Act to prevent Incumbrances about the Doors of the Court House in *Boston*.

WHEREAS the Doors of the Court House in the Town of Boston, are often incumbered by Teams and otherways, so as very much to obstruct the Members of the General Court in their Passage to and from the said House: Preamble.

Be

Penalty for
incumbering
the Doors of
the Court
House.

Be it therefore enacted by the Governour, Council and House of Representatives, That no Person or Persons whatsoever shall presume to incumber the said House by stopping or suffering to stand any Coach, Chaise, Chair, Team, Cart, Sled, Truck or Wheelbarrow, or by laying any Lumber, Stones, Mud, Dirt, or other Incumbrance whatsoever within the Distance of twenty-four Feet from the West End, thirty Feet from the Bottom of the Steps at the East End, and ten Feet from either Side of the said House, upon Pain of forfeiting *five Shillings* unto the Door-Keeper to the General Court for the Time being, and by him to be recovered before a Justice of the Peace.

Penalty for
offending af-
ter Warning
by the Door-
Keeper.

And in Case any Person or Persons offending in either of the Particulars before mentioned, after being thereto required by the Door-Keeper, shall not forthwith remove any such Incumbrance, he or they shall forfeit the Sum of *twenty Shillings*, to be recovered in like Manner as aforesaid.

Proviso.

Provided nevertheless, That this Act shall not be construed so as to hinder any Coach, Chariot, Chaise or Chair, from standing within the Limits aforesaid, which shall be used by the Governour, Lieutenant-Governour, or any of the Members of the General Court for the Time being.

C H A P. III.

An Act for preventing unnecessary Expence in the Attendance of Petit Jurors on the several Courts of Justice within this Province.

Preamble.

*W*HEREAS Petit Jurors are often Times detained at the Trial and Hearing of Causes which are not committed to them by Reason of the Agreement of Parties, Abatement of the Writ, or Discontinuance; whereby the Plaintiff becomes Non-suit, and frequently (especially in the Inferiour Court of Common Pleas) Judgment is entred up against the Defendant by Default, whereby great Part of the Jury's Time is taken up, without their being allowed any Benefit by Law, notwithstanding their being obliged to give their constant Attendance during the Time of the Courts sitting, until all the Actions depending there are finished:

Wherefore,

The Time of
Attendance
of Petit Jurors
stated.

Be it enacted by the Governour, Council and House of Representatives, That Petit Jurors (in the Court of General Sessions of the Peace and Inferiour Court of Common Pleas to be held within and for the County of *Suffolk*) shall not be obliged to give their Attendance until the second Tuesday of said Courts Sitting; and at the said Courts that are to be held within all other Counties within this Province, on the second Day of the said Courts Sitting, to the End that the said Courts may proceed upon and determine all Pleas in Bar and Abatement of Writs, and all other Matters and Things that relate to such Actions as are not committed to the Jury; so that their Time and Attendance be not unnecessarily taken up and delayed. And the Clerks of the respective Courts aforesaid are hereby ordered and directed in making out Writs of *Venire Facias* for the Choice of Petit Jurors to give Directions accordingly.

No Action to
be entred af-
ter the first
Day of the
Court's Sit-
ting &c.

And be it further enacted, That no Action be entred in any of the Courts aforesaid after the first Day of their Sitting: And all Pleas in Bar of the Action or Abatement of the Writ be either entred thereon or filed with the Clerk of the said Court before the Jury be impaneled; and if the Defendant in any Action suffer Default, and comes into Court and moves for a Re-entry of his Action, (after the Jury be impaneled) on paying the Plaintiff or his Attorney such legal Cost as shall then have arose, and half Fees to the Petit Jury, to whom the same shall be ordered by said Court, he shall be admitted to a Re-entry of his Action, and to all such Privileges as by Law he was intitled to on his first Entry.

Courts Rated.

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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1742. And continued by Adjournments and Prorogations to Thursday the thirty-first Day of *March* following.

C H A P. IV.

An Act for fixing the Times for holding the Superiour Courts of Judicature, Courts of Assize and General Goal Delivery, and Courts of General Sessions of the Peace, and Inferiour Courts of Common Pleas within the several Counties in this Province. 11 W. ca. 3.

BE it enacted by the Governour, Council and House of Representatives, That the Times and Places for holding and keeping the Courts of General Sessions of the Peace, and Inferiour Courts of Common Pleas within the respective Counties in this Province for the future shall be as followeth; *That is to say*, For the County of *Suffolk*, at *Boston* on the first Tuesday of *July*, *October*, *January* and *April*: For the County of *Essex*, at *Salem* on the second Tuesday in *July*, and last Tuesday in *December*, at *Newbury* on the last Tuesday in *September*, at *Ipswich* on the last Tuesday in *March*: For the County of *Middlesex*, at *Cambridge* on the third Tuesday in *May*, at *Charlestown* on the second Tuesday in *December* and *March*, at *Concord* on the last Tuesday in *August*: For the County of *Hampshire*, at *Springfield* on the third Tuesday in *May* and last Tuesday in *August*, at *Northampton* on the second Tuesday in *February* and *November*: For the County of *Worcester*, at *Worcester* on the first Tuesday in *November* and *February*, the second Tuesday in *May*, and the third Tuesday in *August*: For the County of *Plymouth*, at *Plymouth* on the first Tuesday in *March*, on the third Tuesday in *May*, *September* and *December*: For the County of *Barnstable*, at *Barnstable* on the last Tuesday in *June*, and on the third Tuesday of *March*, *October* and *January*: For the County of *Bristol*, at *Bristol* on the second Tuesday in *March*, *June*, *September* and *December*: For the County of *York*, at *York* on the first Tuesday of *April*, *July* and *January*, at *Falmouth* on the first Tuesday in *October*: For *Dukes-County*, at *Edgartown* on the first Tuesday in *March* and last Tuesday in *October*: For the County of *Nantucket*, at *Sherburn* on the last Tuesday in *March* and first Tuesday in *October* yearly, and in every Year from Time to Time.

The Times and Places of holding Inferiour Courts and Courts of General Sessions of the Peace.

And be it further enacted, That the Times and Places for holding and keeping the Superiour Court of Judicature, Court of Assize, and General Goal Delivery, shall for the future be as followeth: *That is to say*, Within and for the County of *Suffolk*, at *Boston* on the third Tuesday in *August* and *February*; Within and for the County of *Essex*, at *Salem* on the second Tuesday in *November*, at *Ipswich* on the second Tuesday in *May*: Within and for the County of *Middlesex*, at *Cambridge* on the first Tuesday in *August*, at *Charlestown* on the last Tuesday in *January*: Within and for the County of *Hampshire*, at *Springfield* on the fourth Tuesday in *September*: Within and for the County of *Worcester*, at *Worcester* on the third Tuesday in *September*: Within and for the County of *Plymouth*, at *Plymouth* on the second Tuesday of *July*: Within and for the County of *Barnstable* and *Dukes-County*, at *Barnstable* on the third Tuesday in *July*: Within and for the County of *Bristol*, at *Bristol* on the fourth Wednesday in *October*: Within and for the County of *York*, at *York* on the third Wednesday in *June* yearly, and in every Year from Time to Time until this Court shall order otherwise.

Times and Places of holding the Superiour Courts, &c.

C H A P. V.

5 W. & M.
ca. 9

Preamble.

An Act in Addition to the several Acts for Regulating Fences.

WHEREAS the several Laws already made are ineffectual for obliging Persons to make and maintain Partition Fences between their Lands under Improvement, whereby the aggrieved Parties are put to great Expence and Charge in forcing a Compliance by the Rules of the Law :

Rules for the
Charge of Par-
tition Fences.

Be it enacted by the Governour, Council and House of Representatives, That from and after the first Day of May next, that the respective Proprietors of all Lands enclosed with Fence, shall keep up and maintain Partition Fences between their and the next adjoining Enclosures, in equal Halves according to Law, so long as both Parties continue to improve the same, and in Case either Party lay his Enclosure common, the Party improving shall allow for his Half of said Partition-Fence what the same shall be judged worth in the Estimation of two or more of the Fence-Viewers of such Town ; and if any Person shall enclose such Land afterwards, or by joining Fences with another, enclose his Lands before lying common, he shall thereupon pay to the Person who owns the Partition-Fence the Value of one half of the same, in the Judgment of the Fence-Viewers as aforesaid, and all Partition-Fences hereafter to be made, shall be in like Manner done and maintained by the improving Parties in equal Halves ; and in Case either Party refuse after six Days Notice to make up his Half thereof, the aggrieved Party shall forthwith apply himself to two or more of the Fence-Viewers of such Town, who hereby are impowered and enabled to make up the same according to Law, and upon such Person's Refusal, who ought to pay for the same, with their Costs and Charges thereon, to prosecute and sue for it in any Court of Law proper to try the same, and in Case any Dispute shall arise about the respective Owner's Right to any Part of such Fence, and his or their Obligation to maintain the same, upon Application made to two or more of the Fence-Viewers of such Town where the Land lies, they are hereby impowered to assign to each Party his Share thereof, and such Settlement being recorded in the Town-Clerk's Office, shall be binding upon such Persons, and they obliged always thereafter to maintain their Part of said Fence as aforesaid ; and in Case any of the Parties aforesaid refuse or neglect (after six Days Notice given) to erect, keep up and maintain the Partition-Fences as is by this Act prescribed, upon Application made to two or more of the Fence-Viewers aforesaid, they shall do or cause the same to be done at the Cost of the Person neglecting his Duty, who (in Case of Refusal) shall be liable to the Suit of such Fence-Viewers for the Recovery thereof in Manner as aforesaid, who shall be allowed double for all their Charge and Expence in procuring Materials, and doing the Workmanship thereof : *Saving always*, to every Person and Persons any particular Agreement touching the making and maintaining Partition-Fences between their Lands.

Methods for
determining
Disputes
about the
Charge of
Partition
Fences.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston* upon Wednesday the twenty fifth Day of *May*, 1743.

C H A P. I.

An Act in Addition to and in Explanation of sundry Clauses of an Act Intituled *An Act to ascertain the Value of Money and of the Bills of publick Credit of this Province, &c.* made and pass'd in the fifteenth Year of His Majesty's Reign.

15 G. 2. ca. 4.

Preamble.

WHEREAS in the Law for ascertaining the Value of Money and of the Bills of publick Credit of this Province passed in the fifteenth Year of his Majesty's Reign, it is enacted, That all Debts contracted after

Ascertaining the Value of Money.

after the last Day of March A.D. 1742, (Specialties and expresse Contracts excepted) should be deemed equal to lawful Money, and every Debt of six Shillings and eight Pence Value so contracted should or might be discharged by one Ounce of Silver, or six Shillings and eight Pence of the Bills of publick Credit emitted that Year, or that should thereafter be emitted, equal in Value to an Ounce of Silver. Provided nevertheless, that in Case such Bills should be depreciated below the Value they were stated at by said Act, that an Addition should be made of so much more as would make them equal to the then fixed Value aforesaid. And the Judges of the Superiour Court, agreeable to the Directions of the aforesaid Law, have made Inquiry by a Committee for that Purpose appointed, who have certified into the Secretarys Office that seven Shillings and two Pence of the Bills of Credit of the last Form and Tenor is equal to one Ounce of Silver; in Consequence whereof Judgments have been made up in several Courts on Debts contracted since the last Day of March aforesaid at that Rate, whereby an Addition of six Pence is made to the Creditor on every Debt of six Shillings and eight Pence Value. And whereas by said Certificate compared with the Rates of Bills of Exchange in March aforesaid, it is manifest that the said Bills are not depreciated below the Value they passed at when first emitted, in as much as six Shillings and eight Pence in said Bills will now go as far in purchasing Bills of Exchange as when said Act was made, and the aforesaid Loss has happened to the Debtor from his not strictly attending the Direction of said Law, whereby every Debt of six Shillings and eight Pence is deemed equal to an Ounce of Silver, (Specialties and expresse Contracts excepted) and should have been considered by the Debtor at the Time of contracting such Debt as if the same had been payable in lawful Money. And whereas the Bills of publick Credit currant in this Province are at present the only Medium of the common Trade and Business within it, there will be continual Danger of the Debtor's computing his Debt according to the depreciated Value of such Bills whilst it is deemed by said Law to be contracted for lawful Money; and thereby great Damage may ensue to Debtors contrary to the true Intent and Meaning of the said Law:

Wherefore,

Be it enacted by the Governour, Council and House of Representatives, That all Debts contracted since the last of March A. D. One Thousand seven Hundred and forty two, or that shall hereafter be contracted (Specialties and expresse Contracts excepted) shall be deemed and adjudged equal to the real Value only such Bills have passed or shall pass at when such Debt was or shall be contracted; and every Debt of twenty Shillings contracted as aforesaid, shall or may be always hereafter discharged by twenty Shillings in said Bills, and so *pro rata* for a greater or less Sum; unless such Bills have already or should hereafter be depreciated below the Value they passed at when such Debt was or shall be contracted; and in such Case so much shall always be allowed by the respective Courts in this Province as shall make said Bills equal in Value to such Debt when contracted: Any Thing contained in the aforesaid Law to the contrary notwithstanding.

All Debts to be deemed according to Value of the Bills when contracted.

Saving an Allowance for Bills depreciating.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, 1743. And continued by Adjournment to Thursday the eighth Day of *September* following.

C H A P. II.

11 W ca 6. An Act for erecting of Work-Houses for the Reception and Employment of the Idle and Indigent.

Preamble.

*W*HEREAS the erecting of Houses for the Entertainment and Employment of idle and slothful Persons who refuse to exercise any lawful Calling or Business whereby to support themselves and Families, and of the Poor and Indigent that want Means to employ themselves, may be of great Advantage to the Publick, and more especially to the Towns that shall be concern'd in such an Undertaking :

Any single Town may erect a Work-House, appoint Overseers, &c.

Overseers may make needful Orders for regulating such House.

We it therefore enacted by the Governour, Council and House of Representatives, That whensoever any Town within this Province shall see meet to erect or provide an House for the Purpose before mentioned, such Town shall be and hereby is authorized and impowered so to do ; as also at their publick Meetings for the Choice of Town Officers in the Month of *March* annually, to chuse five seven or nine Overseers of said House, who shall have the Inspection, Ordering and Government thereof, with Power of appointing a Master and needful Assistants for the more immediate Care and Oversight of the Persons received into, or employed in said House : which Overseers once in every Month, and at other Times as Occasion shall require, shall assemble together to consider and determine of the most proper Methods for the Discharge of their Office ; and at their stated monthly Meetings shall have Power to make needful Orders for the Regulation of such House, which Orders shall be binding till the next publick Meeting of the Inhabitants of such Town (to whom such Orders shall be presented for Approbation) and when by them approved shall be obligatory until revoked by said Town.

Two or more Towns may erect a Work-House.

May appoint Overseers to inspect the House, and order the Affairs of it.

And be it further enacted, That when any Number of Towns shall agree (at their joint Charge and for their common Benefit) to erect or provide a Work-House for the Employment of Persons residing in such Towns that are indigent or idle, or to purchase Land whercon to erect such House and for the Accommodation of it, they shall be and hereby are vested with Authority so to do ; and the Regulation Inspection and Government of such House when erected, ordering the needful Repairs of it, with Power of appointing a Master and other Assistants, and him or them (in Case of any irregular Behaviour, Incapacity or other just Cause) to remove from their respective Offices or Trusts, shall be in the Hands of the Overseers to be from Year to Year specially appointed or chosen by the several Towns concerned at their anniversary publick Meetings in the Month of *March* ; each Town to choose five, unless all the Towns engaged in the Undertaking shall agree upon any other Number or Proportions ; and in Case of the Death of any Overseer, or his removal out of the Town for which he was appointed, the Vacancy thereby made may be supply'd by such Town at any other publick Meeting ; and if any Town or Towns concerned, shall neglect to chuse such Overseers, in such Case the Person or Persons chosen by the other Towns may proceed in all Affairs of said House, any such Neglect or Refusal notwithstanding.

Overseers to hold quarterly Meetings.

And be it further enacted, That there be stated Quarterly Meetings of all the Overseers on the first Tuesday of the Months of *April*, *July*, *October* and *January*, from Year to Year, to be held at the Work-House, in order to inspect the Management thereof, and for the ordering the Affairs of said House ;

and

and besides these stated Meetings, intermediate Meetings (to be held at the Work-House) may be called (when Need requires) by the Overseers of any Town concerned, due Notice of the Time and Occasion thereof being given to the rest in such Way and Manner as shall be agreed on by the Overseers at any General stated Meeting.

And be it further enacted, That the Overseers when duly assembled may chuse a Moderator to regulate the Business of the Meeting, who shall have a Voice in Matters voted or transacted by the Overseers, in Case only of an Equi-Vote; and at their first general Meeting in every Year shall likewise chuse a Clerk to enter and record all Votes and Orders that from Time to Time shall be made and passed by the Overseers, who shall be sworn to the faithful Discharge of his Trust. May choose a Moderator, Clerk, &c.

And be it further enacted, That the Overseers for the Time being at a general quarterly Meeting (whereat one half at least of the whole Number of Overseers shall be present) shall have Power to make needful and reasonable Orders and By-Laws) not repugnant to the Laws of this Province) for the better and more decent regulating the said House, and well ordering the Affairs of it; which Orders shall be binding until the Expiration of the Year for which such Overseers shall be chosen, or until they shall be by them revoked: and at such Meeting may likewise agree with the Master or other Assistants, and order meet Allowance for their Care and Service during the Term for which such Overseers shall be chosen, or such further Term as the Towns concerned shall agree; all other Matters of less Importance relating to the said House, may be transacted at any other Meetings duly warned, when but seven of the Overseers are present; subject nevertheless to be altered or reversed at any general stated Meeting. May make Orders and By-Laws. May order meet Allowance to the Master and Assistants.

And be it further enacted, That the yearly Stipend or Allowance to the Master and Assistants over and above what is provided for by this Act for their Care and Trouble, together with the Charge of keeping the House in Repair, shall be paid by the several Towns concerned in Proportion as they are set or rated in the Province Tax at the Time when such Repairs shall be made, or such Allowance stated by the Overseers, or in such other Proportion as all the Towns concerned shall agree, and the Town or Towns refusing or neglecting to advance their respective Proportion of such Allowance or other Charges before mentioned, after they shall have been stated and adjusted by the Overseers, the same may be recovered of such delinquent Town or Towns (in any Court proper to try the same) by Action to be brought by the Person or Persons whom the Overseers may appoint for that Purpose. By whom and in what Proportion the Allowance to the Master and Charge of repairing the House shall be defrayed.

And be it further enacted, That any three or more of the Overseers in any Town already provided with such a House, and of the Overseers in any Town that (either by themselves or in Conjunction with other Towns) shall hereafter erect a Work-House, be and they are hereby directed and empowered to commit to such House (by writing under the Hands of the said Overseers) to be employed and governed according to the Rules and Orders of the House any Person or Persons (residing in such Town) that hereafter in this Act are declared liable to be sent thither: Provided that no greater Number of Persons belonging to any Town be received into the House than such Town's Proportion of said House (to be allotted them) can accommodate, when the receiving them will exclude or incommode such as belong to other Towns. Overseers of each Town concern'd empowered to commit Persons to the WorkHouse.

And be it further enacted, That the Persons who shall be liable to be sent to, employed and governed in any Work-House erected or to be erected by one or more Towns, pursuant to this or any former Act, are all Poor and Indigent Persons, that are maintained by or receive Alms from the Town; also all Persons able of Body to Work (and not having Estate or Means otherwise to maintain themselves) who refuse or neglect so to do, live a dissolute or vagrant Life, and exercise no ordinary or lawful Business or Calling whereby to gain an honest Livelihood; and all such as having some rateable Estate but not enough to qualify them to vote in Town Affairs, do neglect the due Care and Improvement Qualification of Persons liable to be sent thither.

Improvement of it, and by consuming their Time and Money in publick Houses to the Neglect of their proper Business, or by otherways mispending what they earn to the Impoverishment of themselves or Families, are likely to become chargeable to the Town.

Towns neglecting to provide their Proportion of Materials, &c. deprived of the Privilege of sending Persons thither.

And it is hereby further provided and enacted, That if any Town shall refuse or neglect to provide their Proportion of the needful Furniture for such House, or of the Materials, Implements and other Necessaries for carrying on the Work there to be performed, according to their Agreement, or as shall be ordered by the Overseers, such Town shall be deprived of the Privilege of sending any Person thither, until such Time as they shall comply with such Order or Agreement.

The Master to keep the Materials sent by each Town a part from those sent by other Towns.

And he it further enacted. That besides the aforesaid Proportion of Materials &c. to be found by the Towns concerned, each Town may likewise provide such Materials, Implements and Tools for Work as the Overseers for such Town shall judge any Person by them committed to said House can be employed about with most Profit and Advantage, during his or her Abode there; and the Master of the House shall receive such Materials and keep them separate and apart from those that shall be sent by any other Town, and shall be accountable to the Overseers of each Town concerned, as well for the prime Stock and Earnings that shall be made by the Labour of those (belonging to such Town) under his Care; and shall keep a Register of the Names of the Persons committed to such Work-House, with the Time of their being received into and discharged from it, and of their Earnings by their Labour, that so the same may appear to any of the Overseers whensoever they shall see Cause to inspect them; and all Controversies between the Master or Keeper of such House, and the Overseers of any Town touching his Accounts or other Affairs whatsoever, may be determined by the Overseers of the House at a General Meeting.

To be accountable for the prime Stock and Earnings.

To keep a Register, &c.

Controversies betwixt the Master and Overseers of any Town how to be determined.

Each Town to bear the Charge of supporting such as they commit to the House.

How Persons committed may be discharged.

Persons committed to be kept to Labour.

In Case they be idle or disorderly, to be punished.

The Master to have one Third of the Earnings.

How the other two Thirds of the Earnings and the prime Stock shall be disposed of.

Any Work-House may be discontinued, in Case.

And he it further enacted, That no Town shall be at Charge for the Support or Relief of any Person committed to said House, who was not sent thither by the Overseers belonging to such Town; nor any Person orderly committed to it, shall be discharged from it, but by the Overseers by whom he was committed, or by the Overseers at a General Meeting, or otherwise by the Justices of the Court of General Sessions of the Peace in the same County, upon Application to them made for that Purpose; and every Person so committed (if fit and able to Work) shall be held and kept strictly and diligently employed in Labour, during his or her abode there; and in Case they be idle and shall not duly perform such Task or Stint as shall be reasonably assign'd them, or shall be stubborn and disorderly, shall be punished according to the Orders that shall be made for the ruling, governing and punishing of the Persons there, to be committed, not repugnant to the Laws of this Province.

And he it further enacted, That one third Part of the Profits or Earnings of the Work done by the Persons detained in such House, shall be to the Master for and towards his Support, over and above such further annual Stipend as the Overseers see meet to order and allow him as before mentioned for his Care and Service.

And he it further enacted, That the prime Stock, together with the other two Thirds of the Profits or Incomes of the Labour of the Persons employed there, shall be disposed of by the Overseers of the respective Towns to whom it belongs, either to the Master in Satisfaction for his Service, Care and Expence about the Persons by them committed to him, and at such Rate as the said Overseers and Master shall agree, or for the Support of the Families of the Persons there detained (if any such they have) or otherwise for the Use of such Town as Occasion shall require.

And he it further enacted, That any Work-House erected as aforesaid may be discontinued or applied to any other Use whensoever the Town or Towns concerned shall find or judge their Circumstances require it, and shall agree so to do.

Provided

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Provided nevertheless, That nothing herein contained shall be construed or understood to abridge the Town of *Boston*, or the Overseers of the Poor thereof any Priviledge or Power (with Relation to a Work-House) already granted them by a late Law of this Province for that Purpose made and provided.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, 1743. and continued by Adjournment and Prorogation to Thursday the twentieth of *October* following.

C H A P. III.

An Act for the more speedy finishing of the Land Bank or Manufactory Scheme.

17 G. 2. ca. 6.
18 G. 2. ca. 1.
22 G. 2. ca. 2.
24 G. 2. ca. 4.
28 G. 2. ca. 1.
32 G. 2. ca. 4.

WHEREAS notwithstanding the Directors and Partners of the late Land Bank Company have in general publicly renounced their Scheme, and great Numbers of them have redeemed their just Proportions of the said late Company's Bills, and delivered them up to be consumed, yet many of the Partners still neglect to do it, by Means whereof those who have paid a due Obedience to the Law, in this Regard still remain exposed to the Actions of the Possessors of the said late Company's Bills, commonly called the Manufactory Bills, which are now outstanding, and many of them have suffered great Loss through the Default of their Partners, who contemptuously refuse to redeem their due Proportions of the said Bills:

Preamble.

Now for the more speedy finishing of the said Scheme in as equitable a Manner as may be, and preventing such of the Directors and Partners as have complied with the Law from suffering Ruin or Damage through the Obstinacy or Neglect of their delinquent Partners:

Be it enacted by the Governour, Council and House of Representatives, That *John Jeffries*, *Samuel Danforth*, and *John Chandler*, Esqrs; be Commissioners to receive Commission for the Purposes hereafter mentioned from the Governour, and the said Commissioners or any two of them, shall by Virtue of this Act, have full Power effectually to order and adjust all the Affairs and Business necessary for the just and equal finishing of the said Land Bank and Manufactory Scheme; which Commissioners before their entering upon the Execution of the said Trust, shall take the following Oath, viz.

Commissioners for finishing the Land Bank Scheme.

Their Power.

I A. B. do Swear, that I will faithfully honestly and impartially manage and discharge the Trust reposed in me by the Commission for ordering and adjusting all the Affairs necessary for the finishing of the Land Bank Scheme, without Favour or Affection, Prejudice or Malice, to the best of my Skill.

Commissioners Oath.

So help me GOD.

And the said Commissioners, or any two of them, shall have full Power to call before them and examine upon Oath any Persons whomsoever, touching the Affairs and Trade of the said late Company, and to order all the Effects, Books, Papers, and Writings, relating to the said Scheme and Trade, to be delivered up to them, that they may discover all the Debts and Credits of the said late Company, and the Quantity of their Bills emitted, how many of them are redeemed and consumed, or lying ready to be consumed, and by whom they were redeemed, how many are still outstanding; what Loss and Charge hath already incurred upon them; and what is the Proportion of every Director and Partner of the said late Company for the Redemption of the outstanding Bills.

And

For prevent-
ing fraudu-
lent Convey-
ances.

Commis-
sioners Power.

And for preventing any fraudulent Alienations or Conveyances of the Estates of such of the aforesaid late Directors and Partners, who have not redeemed their just Proportions of the said Bills, in order to defraud the said late Company's Creditors, and avoid the Effect of this Act :

Be it further enacted, That from and after the Publication of this Act the Estate of each and every such Director and Partner shall be thereby bound and subjected to the Payment of such Sum or Sums of Money as shall be assessed upon him by the said Commissioners, or any two of them, with the Approbation and Allowance of the Great and General Court of this Province (as is herein after mentioned) for the Redemption of their respective Proportions of the Bills of the said late Company, and their equitable Part and Share of all Loss and Charges arising by the said Scheme, in such Manner as the same or any Part of it would be bound and subjected by the actual Service of Process of Attachment upon it at the Suit of any Creditor, according to the ordinary Course of the Law, and the Usage within this Province : And the said Commissioners or any two of them, are hereby enabled in their own Names to demand and receive such Sums of Money as shall be so assessed upon any of the delinquent Directors or Partners, and allowed by the General Court as aforesaid, and also to raise the same by mortgaging in their own Names that Part of any delinquent Directors or Partners Estate which he had mortgaged to the said late Company for Performance of his Covenants and Agreements with them : or, if need be in their own Names to sue for and recover the aforesaid Sums or any Part thereof, in any of His Majesty's Courts within the County of *Suffolk*, by such Actions as the Nature of the Case shall require : And the said Commissioners, or any two of them, are hereby likewise enabled in their own Names to demand and receive of and from any Person or Persons whatsoever, any Money, Goods or Effects whatsoever, due or owing from them to the said late Land Bank Company, and if need be in their own Names to sue for and recover the same in any of His Majesty's Courts within the County of *Suffolk*, by such Action as the Nature of the Case shall require ; and shall apply all such Sums of Money, Goods and Effects as they shall receive and recover of and from the said delinquent Directors and Partners, and the Debtors of the said late Company, or any of them, together with such Sums of Money as they shall raise by mortgaging the aforesaid Estates of the said delinquent Directors and Partners, or any of them, towards the Redemption of the outstanding Bills of the said late Company, and shall from Time to Time give publick Notice in the *Boston Gazette*, of what Sums of Money they shall so receive, that the Possessors of the said Bills may bring the same in to them, to be redeemed : And the said Commissioners, or any two of them, are hereby enabled equitably to apportion whatsoever Loss shall finally appear to arise by the said Scheme or Trade to the said late Company in general, or to any of the said Directors or Partners in particular, either thro' the Insolvency of any of the said late Directors and Partners, or by Means of the Charge attending the said late Manufactory Scheme, or otherwise howsoever, among the said late Directors and Partners in general, as the Justice of the Case shall require, so as that each of them may bear as near as may be his equitable Proportion of the Loss and Burthen arising by their said late Scheme or Trade ; and are hereby enabled in their own Names to demand, sue for and recover in any of his Majesty's Courts within the County of *Suffolk*, in such Manner as is aforesaid, of and from each and every of the said late Directors and Partners, such Sum and Sums of Money as shall be so assessed upon any of them, with the Approbation and Allowance of the Great and General Court for their respective Shares of the aforesaid Loss and Burthen from Time to Time, till the aforesaid Scheme shall be finished, and thereupon all the said Manufactory Bills which shall be received by the said Commissioners shall be burnt, and the Plates of the said late Company from whence they were struck, be defaced and broken, and all the Securities given by any of the said late Directors and Partners to the said late Company, shall be cancelled by the said Commissioners, or any two of them, in their own Names.

Provided

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Provided always, That this Act shall not be adjudged or construed to be intended to hinder the Possessors of any of the Manufactory Bills from making the same Demands upon any of the late Directors and Partners of the said late Manufactory Company for the Redemption of the said Bills, as they might have made upon them before the Publication of this Act; and that the Estates of the said Directors and Partners shall be as liable to be attach'd at such Suits of the Possessors of the said Bills, or of any other just Creditor, as they were before the making of this Act; any Thing herein contained to the contrary thereof in any wise notwithstanding.

Directors and Partners liable to the Suits of the Possessors of the Bills and others.

Provided also, That the said Commissioners shall make a Report of their Proceedings in the Execution of their aforesaid Trust, to the Great and General Court at their Session which will begin and be held in *May* next, for their Approbation and Allowance or Disallowance thereof either in Whole or in Part, and that any of the said late Directors and Partners who shall think himself aggrieved by such Proceedings of the said Commissioners, may file his Appeal from their Determination to the said Court at their aforesaid Session in the Secretary's Office, at any Time before the said Session of the said Court, and in Case the Receipt of any Sum in the said Manufactory Bills charged upon any of the said late Directors and Partners by the said Commissioners shall be denied in such Appeal, or the Redemption of any of the said Bills or the Payment of any Sum of Money to the said late Company, for which no Allowance has been made by the Commissioners, shall be insisted upon in such Appeal, or any Person upon whom the Commissioners shall assess any Sum of Money to be paid, shall deny in such Appeal that he was either a Partner or Director, or any Ways concerned in the said late Manufactory Scheme, and the Appellant in any of these Cases pray that a feigned Issue at Law may be directed to be tried for the Determination of any of the said Matters of Fact in one of His Majesty's Courts of Judicature, then the Great and General Court shall upon the Appellant's depositing *ten Pounds* lawful Money in the Secretary's Office as Caution Money for the Payment of Costs, if the Verdict upon the Trial of such Issue shall be found against him, direct an Issue at Law accordingly, to be tried at the Superiour Court of Judicature to be held for the County of *Suffolk* next after such Order made; which Trial shall be a final Determination of such Matter: And in Case the Verdict in the same shall be for the Appellant, then his aforesaid Caution Money deposited in the Secretary's Office, shall be returned to him: And the Clerk of the Superiour Court of Judicature is hereby directed to return a Copy of the Record of such Trial into the Secretary's Office as soon as may be, for the Information of the Great and General Court therein, which shall thereupon proceed to the Determination of the Appeal.

Provision for an Appeal to the Governor and Council.

Matters to be tried in the Superiour Court.

Caution to be given in the Secretary's Office.

And he it further enacted, That all Mortgages of any Lands or Tenements of any of the said late Directors or Partners made by the said Commissioners, or any two of them as aforesaid, shall be good and effectual to all Intents and Purposes in the Law; and the former Mortgages thereof made by the Owners to the said late Company, shall be thereupon cancelled and discharged by the said Commissioners, or any two of them, in their own Names.

Mortgages to be made by the Commissioners to be good.

And whereas several Parcels of the said Manufactory Bills may be lodged in some or other of His Majesty's Courts of Judicature within this Province, upon Judgments obtained there by some of the Possessors of such Bills against some of the Directors or Partners of the late Land Bank Company, for the Redemption of the said Bills:

Preamble.

We it further enacted, That the Justices of such Courts shall within thirty Days after the Publication of this Act cause such Bills to be delivered up to the aforesaid Commissioners, with a Certificate of the Names of the Possessors who lodged the said Bills in Court, and of the Directors or Partners of the said late Company against whom Judgment was obtained for the Redemption of the said Bills.

Bills lodged in the Courts to be delivered to the Commissioners.

Justices to summon Witnesses.

Allowance to the Commissioners. And the said Commissioners shall be allowed each *ten Shillings* for every Day of their Attendance upon the Execution of their said Trust, and no more, to be paid by the late Directors and Partners of the aforesaid Scheme, as also all other necessary Charges which they may be at in prosecuting the Affair aforesaid, out of the Effects of the said late Company, and shall render an Account of their Proceedings to the Great and General Court, when and so often as thereunto required, and shall sit three Days at least in a Week for the Dispatch of said Business, until the same shall be finished.

Provision in Case of a Vacancy.

And be it further enacted, That in Case of the Death or Refusal of any of the Commissioners aforesaid, such Vacancy shall be supply'd by the Great and General Court.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May* 1743. And continued by Adjournment and Prorogations to Wednesday the eighth Day of *February* following.

C H A P. IV.

An Act to impower Justices of the Peace to summon Witnesses.

Preamble.

WHEREAS it often happens that when Disputes of a civil Nature arise between Parties, the Matter is submitted to the Arbitrament and Determination of Persons mutually chosen between them, or where Actions are commenced the Parties enter into a Rule of Court, whereby much Cost and long Contentions in the Law are prevented, but for want of proper Authority to summon Witnesses before the Arbitrators and Referees, such Submissions References and peaceable Settlements of Disputes are not so easy as otherwise they might be: Wherefore,

Justices impowered to summon Witnesses in Arbitrations, References &c.

Be it enacted by the Governor, Council and House of Representatives, That when any such Dispute or Difference arising between Parties shall by them be submitted to the Arbitrament and Determination of Persons mutually chosen between them, or where Actions are commenced and the Parties have entred into a Rule of Court, it shall and may be lawful for any one of His Majesty's Justices of the Peace within this Province in the respective Counties, on Application of either of the Parties or of the Persons arbitrating, to grant Subpœnas to summon and cause to appear before the Arbitrators or Referees such Person or Persons as shall be named for Evidences in the Premises, as fully and in the same Manner as by Law he might in Cases depending before himself; and every Person so summoned that shall refuse or neglect to appear and make Oath before a Justice of the Peace in the Presence of the Arbitrators or Referees as aforesaid (having first been paid as in civil Causes is allowed to Witnesses) shall be subject to the same Forfeiture and Damage as by Law he might be were he summoned to appear before any Court of Record, and should refuse or neglect Obedience thereto.

Penalty for Witnesses refusing to give Evidence.

How Witnesses going abroad are to be sworn.

And be it further enacted, That when any Witness may be going to Sea, or lives more than thirty Miles from the Place of the Sitting of the Referees or Arbitrators, or by Reason of Age, Sickness or other bodily Infirmities is incapable of travelling and appearing in Person, then any Justice of the Peace to whom Application may in such Case be made, is hereby impowered and directed to proceed in taking such Person's Evidence according to the Law made for taking Affidavits out of Court.

Alewives and other Fish.

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CHAP. V.

An Act in Addition to an Act made in the fifteenth Year of his present Majesty's Reign, Intituled *An Act in Addition to an Act made to prevent the Destruction of the Fish called Alewives and other Fish.* ^{15 G. 2. ca. 6.}

WHEREAS in and by an Act made in the fifteenth Year of his present Majesty's Reign, Intituled *An Act in Addition to an Act made to prevent the Destruction of Alewives and other Fish*, it is provided, That all Persons that should thereafter build any Mill Dam or Dams, or that had before the Time of the passing the same built any such Dam across any River or Stream where the Salmon, Shad, Alewives or other Fish usually pass up into the natural Ponds to cast their Spawn, shall make or open a sufficient Passage Way for the Fish to pass up such River or Stream through or round such Dam, and shall keep it open for the free Passage of the Fish from the first Day of April to the last Day of May annually; and also that a sufficient Water Passage round, through or over such Dams should be made for the Passage of such Fish or their young Spawn in the Season of their going down such River or Stream, on Penalty of fifty Pounds for every Offence: But by Reason that no Direction is therein given with respect to the sufficiency of the Sluice or Passage so to be made or left open, there arises great Difficulty to the Owner or Occupant of such Dams in complying therewith. And whereas by Reason that in some Streams and Rivers the said Fish pass sooner and in others later in the Year than the Time prescribed in said additional Act, as well as that the Time of their passing up and down, is in some Streams and Rivers longer, and in some shorter, so that it is found by Experience that the general Rule in the aforesaid Cases by Law provided, does not only fail of the good Ends proposed thereby, but also exposes the Owners and Occupants of such Dams to Trouble and Damage not necessary to answer the good Purposes of said additional Act:

Wherefore,

Be it enacted by the Governor, Council and House of Representatives, That it shall and may be lawful for any Owner or Occupant of any such Dam or Dams already built, or that may hereafter be built, and who are or may be obliged by said additional Act to open or leave open such Passage as aforesaid to apply to the next Court of General Sessions of the Peace to be holden in and for the County where such Mill Dam is, and the Justices of the Court respectively on such Application are impowered and directed to appoint a Committee of three sufficient and as much as may be, disinterested Persons under Oath, to repair to the Dam where the Passage is proposed to be opened, and carefully view the same, and in the best Manner they are able to inform themselves of the most proper Place for the Passage of such Fish up and down Stream, of what Dimensions the same shall be made or appointed to be, and what Part of each Year, and how long the same shall be kept open, and return the same under their Hands, or the Hands of the major Part of them, to the said Court for their Acceptance: which Return so made and accepted, shall be deemed and adjudged the lawful Rule of Proceeding in making and keeping open the Passage and Passages for the Fish in passing up and down the Rivers and Streams for the future: Any Thing contained to the contrary in said additional Act notwithstanding.

Provided nevertheless, That if at any Time after such Determination either Party shall think themselves aggrieved by such Determination, it shall and may be lawful for the Owner or Owners, Occupant or Occupants of such Mill Dam or Dams, or any other five Persons of the other Party who may expect Benefit by said Fish passing up such Rivers or Streams once more to apply to the said Court for a new View and Report on the Premises in Manner aforesaid, which being by said Court accepted shall be final; the Charge of such Application

Owners or Occupants of Dams may apply to the Sessions to order the Passages for Fish & the Circumstances thereof.

Parties aggrieved by such Order to apply to the Sessions for Relief.

Charge how
to be born:

to be born by the Persons applying in Case no material Alteration on the first Return is made, but otherways be born by the Owners of the Dam, in Proportion to their Interest, to be first stated and allowed by the said Court of General Sessions, and may be recovered by Action or Actions of Debt in any Court proper to try the same.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-fifth Day of *May*, 1743. And continued by Adjournment and Prorogations to Wednesday the eighth Day of *February* following.

C H A P. VI.

An Act to explain a Paragraph in an Act of this Province made in the present Year of his Majesty's Reign, for the more speedy finishing the *Land Bank* or *Manufactory Scheme*.

17 G. 2. ca. 3.

Preamble.

WHEREAS in and by an Act made and pass'd at the Session of this Court held the twentieth Day of October last Intituled An Act for the more speedy finishing the *Land Bank* or *Manufactory Scheme*, it is (among other Things) provided that the said Act "shall not be adjudged or construed to be intended to hinder the Possessors of any of the Manufactory Bills from making the same Demands upon any of the late Directors and Partners of the said late Manufactory Company for the Redemption of the said Bills, as they might have made upon them before the Publication of the said Act, and that the Estates of the said Directors and Partners shall be as liable to be attached at such Suits of the Possessors of the said Bills or of any other just Creditor, as they were before the making of the said Act, any Thing therein contained to the contrary thereof in any wise notwithstanding." And in and by another Clause of the said Act it is enacted, "That whereas several Parcels of the said Manufactory Bills may be lodged in some or other of His Majesty's Courts of Judicature within this Province upon Judgments obtained there by some of the Possessors of such Bills against some of the Directors or Partners of the late Land Bank Company for the Redemption of the said Bills; The Justices of the said Courts shall within thirty Days after the Publication of that Act cause such Bills to be delivered up to the aforesaid Commissioners with a Certificate of the Names of the Possessors who lodged the said Bills in Court, and of the Directors or Partners of the said late Company against whom Judgment was obtained for the Redemption of the said Bills."

And whereas it may have happened that some of the Possessors of the said Manufactory Bills who had before the making of the aforesaid Act obtained Judgments in some or other of His Majesty's Courts of Judicature within this Province against some of the Directors or Partners of the said late Manufactory Company for the Value of some of the said Bills and Interest due thereon, pursuant to the Act of Parliament in that Case made and provided, and had thereupon lodged such Bills in the Court where they had obtained such Judgments, but had not then nor have yet received Satisfaction upon those Judgments.

And whereas some Doubt has arisen whether the Justices of His Majesty's Courts of Judicature where any of the said Manufactory Bills are lodged as aforesaid, are not directed and bound by the last recited Clause of the aforesaid Act of this Court to deliver up all the same without Exception to the aforesaid Commissioners, as well in Cases where the late Possessors of the said Bills who have obtained Judgment in their Court for the Value of the same and Interest due thereon with Cost of Suits, have not received full Satisfaction upon such Judgments

Sealers of Weights and Measures.

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Judgments, as in Cases where they have received Satisfaction upon the same ; Which Construction of the said Clause is contrary to and inconsistent with the plain Sense of the herein before first recited Clause of the same Act, and to the Intent and Meaning of the said Act in general.

Now for removing the said Doubt and preventing any Misconstruction of the said Act in the Case before mentioned :

Be it enacted and declared by the Governour, Council and House of Representatives, That the true Intent and Meaning of the herein before recited Clauses of the aforesaid Act for the more speedy finishing of the *Land Bank* or *Manufactory Scheme*, was at the Time of passing the said Act, and shall be adjudged, construed and taken to be, that such only of the said *Manufactory Bills*, for the Value of which Judgments as aforesaid have been obtained, and the late Possessors have received full Satisfaction according to such Judgments, and it so appears by the Records of the said Courts, shall be delivered out of any of the said Courts of Judicature to the aforesaid Commissioners : Any Thing in the afore-recited Act to the contrary notwithstanding.

Manufactory Bills that for which Value has been received only to be delivered to the Commissioners.

C H A P. VII.

An Act to enable Justices of the Peace and Town Clerks to administer an Oath to Sealers of Weights and Measures, &c. and to establish their Fees.

4 W. & M. ca. 14.

WHEREAS by Law it is provided, that Sealers of Weights and Measures when chosen shall be presented to the Court of General Sessions of the Peace to be sworn, which by Reason of the Distance of many Towns in this Province from any such Court, often occasions great Delay and unnecessary Trouble :

Preamble.

For preventing of which for the future :

Be it enacted by the Governour, Council and House of Representatives, That from and after the Publication of this Act, it shall and may be lawful for any one of his Majesty's Justices of the Peace in the respective Counties to administer an Oath to any Sealer of Weights and Measures that may be chosen (as by Law already provided) in any Town within the County where such Justice lives, or the Town Clerk in such Towns where no Justice dwells, and such Sealer so chosen and sworn shall be deemed legally qualified for his Trust.

Justices of Peace and Town Clerks to administer the Oath to Sealers of Weights and Measures.

And whereas in the late Law for establishing Fees no Provision is made for such Offices, and by the Alteration of the Value of Money, the former Fees are become unequal :

Be it enacted, That for the future the Fees for the first Sealing any Weight, Measure, Scale or Beam, shall be one Penny half Penny, and for each After-sealing any such Weight, Measure, Scale or Beam, one Penny, which the Sealer may demand and take, and no more : Any Law, Usage or Custom to the contrary notwithstanding.

Fees for Sealers fixed.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1744. And continued by Adjournment to Thursday the ninth Day of *August* following.

C H A P. I.

An Act in further Addition to and Explanation of the Act for the more speedy finishing of the Land Bank or Manufactory Scheme.

17 G. 2. ca. 3

Preamble.

WHEREAS in and by an Act passed in the seventeenth Year of his present Majesty's Reign, Intituled An Act for the more speedy finishing of the Land Bank or Manufactory Scheme; it is provided, that the Commissioners therein named, should make a Report of their Proceedings in the Execution of their Trust to this Court at their present Session for their Approbation and Allowance, or Disallowance thereof, either in Whole or in Part, and that any of the late Directors and Partners of the late Land Bank or Manufactory Company, who should think himself aggrieved by the Proceedings of the said Commissioners, might file his Appeal from their Determination to this Court in the Secretary's Office at any Time before the present Session thereof.

And whereas the Affairs of the said late Company have been since found to be so circumstanced, that an Assessment on all the late Directors and Partners for their respective Proportions of the whole of the Charge and Loss that has arisen on said Scheme and Trade could not be made before the present Session of this Court; but the said Commissioners have, during the present Session thereof, assessed such of the delinquent Partners in said Scheme as have paid no Part of what is due from them to the said late Company, nor have otherwise redeemed any Part of the Bills which they borrowed and received of the said late Company, in divers Sums of Money, consisting of the principal Sums by the said delinquent Partners respectively received from the said late Company in Land Bank or Manufactory Bills, and the Interest due thereon, together with the further Sums of six Pounds on every Hundred of the original Sum drawn out of the said late Company's Stock, or borrowed out of the same by such of the said assessed Partners as were concerned in Trade, and three Pounds on the Hundred, as the Proportion of the other assessed Partners and pro rata for any greater or less Sum; and have made a Report of their said Proceedings to this Court, which Report is dated 16th of August 1744. But inasmuch as the Parties so assessed have had no Opportunity, in Case they should think themselves aggrieved by the said Proceedings, of filing their Appeal from the aforesaid Determination of the said Commissioners. to this Court, at their present Session, as in and by the before in Part recited Act it is provided they should have Liberty to do:

Appeal allowed to the Partners of Land Bank to the General Court from the Commissioners Determinations.

Be it therefore enacted by the Governor, Council and House of Representatives, That the said Partners of the said late Manufactory Company, who have been assessed by the said Commissioners in Manner aforesaid, and every of them shall have Liberty, in Case they or any of them shall think themselves aggrieved by the before-mentioned Determination and Assessment to appeal from the same to this Court at their next Session, provided they shall file such Appeal or Appeals in the Secretary's Office on or before the seventh Day of September next ensuing, and such Appeals and the Matters arising thereon shall be wholly governed, tried and determined by the Rules prescribed touching Appeals by the said in Part recited Act. And the aforesaid Proceedings of the said Commissioners,

Land Bank.

ners, and every Part thereof, are hereby declared to be allowed and approved of by this Court against such of the Partners assessed as aforesaid, who shall not file their Appeals from the same as aforesaid, within the Term herein before limited for that Purpose: And such of the said Partners shall be chargeable to pay to the said Commissioners the respective Sum or Sums assessed upon them; and on Neglect of Payment thereof, the said Commissioners may in their own Names raise, sue for, and recover the same in such Manner as in and by the said former Act is provided.

Provided nevertheless, That the said Commissioners shall give Notice to the late Partners of the late Manufactory Company by them assessed as aforesaid, of the several before mention'd Assessments, by causing a List or Schedule of the same, together with a Copy of this Act, to be inserted in the four weekly Prints, called, *The Boston Weekly Post-Boy, The Boston Evening-Post, The Boston Gazette, or Weekly Journal, and The Boston Weekly News-Letter,* which shall be next published after the Publication of this Act. Commissioners to give Notice of their Assessments in the Boston Newspapers.

And whereas the Affairs of the said late Company are under such Circumstances that the same cannot be adjusted and finished in an equitable Manner by one single Assessment, but divers Assessments by the said Commissioners on the late Directors and Partners of the said late Company, and divers Reports of their Proceedings to this Court, are requisite for that Purpose: Preamble.

We it further enacted, That the said Commissioners, or any two of them, shall and may from Time to Time, until the Affairs of the said late Company be wholly settled and finished, as often as there shall be Occasion, make such Assessments on any of the said late Directors and Partners as they shall judge necessary for finishing the said Land Bank or Manufactory Scheme in the most equitable Manner, pursuant to the Directions of the said in Part recited Act; and upon every such Assessment's being made, the said Commissioners shall give the Parties thereby assessed Notice thereof, by causing Lists or Schedules of such Assessments to be inserted in the before-mention'd Weekly Prints, which shall be next published after the making the said Assessment; and that any of the said late Directors or Partners, who shall think himself aggrieved by any such Determination and Assessment, to be made by the said Commissioners, may at any Time within fourteen Days next after, Notice thereof being published in the four before-mention'd weekly Prints, file his Appeal from the same to this Court in the Secretary's Office; and all such Appeals, and the Matters arising thereon, shall be wholly governed, tried and determined by the Rules prescribed touching Appeals by the said in Part recited Act. Commissioners to make divers Assessments if they judge fit. Appeal to be allow'd from them.

And be it further enacted, That every further Assessment made by the said Commissioners, shall remain in the Chamber of the Court-House in *Boston*, wherein the said Commissioners usually meet for the Execution of their Trust, until the Expiration of the said fourteen Days herein before limited for the filing of Appeals, ready for the Inspection of such of the Parties therein assessed as shall desire the same, and Copies thereof attested by the Clerk of the said Commissioners shall be delivered to them upon their Request, and at their proper Charge; and that the said Commissioners shall make Report of their Proceedings in every such Assessment to this Court as soon afterwards as may be, for their Approbation and Allowance or Disallowance thereof, in Whole or in Part; and each and every of the said late Directors and Partners shall be chargeable to pay to the said Commissioners the Sum or Sums in which he or they shall be from Time to Time assessed by the said Commissioners, with the Approbation of this Court, and on Neglect of Payment thereof, the said Commissioners may in their own Names raise, sue for, and recover the same in such Manner as by the said former Act is provided. Assessment to be lodged in the Commissioners Chamber. Directors and Partners chargeable to pay the Sums assessed. Commissioners empowered to sue.

And be it further enacted, That attested Copies of the Assessment herein before-mentioned to be already made by the said Commissioners, shall be delivered out of the Secretary's Office to any of the Parties therein assessed upon their Request and at their proper Charge. Copies of Assessments to be delivered out of the Secretary's Office.

And

Ascertaining the Value of Money.

Preamble.

And whereas in and by the before mentioned Act, the said Commissioners are obliged to sit three Days in a Week for the Dispatch of the Affairs of said Scheme, until the same shall be finished : And whereas their Attendance for so great a Part of the Week may not be necessary after they shall have made their next Assessment, and reported the same :

Commissioners not obliged to sit more than one Day in the Week.

Be it therefore enacted, That the said Commissioners shall not be obliged (after they shall have presented their next Assessment on the aforesaid Manufactory Company to this Court for their Allowance) to sit more than one Day in a Week, unless when they shall judge that the Affairs of said Company shall require more frequent Attendance.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the thirtieth Day of *May*, 1744. And continued by Adjournment and Prorogations to Wednesday the twenty-eighth Day of *November* following.

C H A P. II.

15 G. 2. ca. 4.

An Act in further Addition to an Act ascertaining the Value of Money, and of the Bills of publick Credit of this Province.

Preamble.

*W*HEREAS notwithstanding the Provision that is made in and by an Act pass'd in the fifteenth Year of his present Majesty's Reign (intituled An Act to ascertain the Value of Money, and of the Bills of publick Credit of this Province, granted this present Year for the Supply of the Treasury, and for securing the Credit of said Bills) for securing to any Creditor or Creditors what the Bills of Credit might sink or depreciate in their Value between the Time of contracting the Debt and the Payment thereof, it has been a frequent Practice for Creditors to exact and take of their Debtors for the Loan of any Sum or Sums of Money lent, and for Forbearance of their Debts, more than six per Cent ; by which Practice some of the good and wholesome Laws of this Province, and the equitable Intent and Designs of them are eluded, and great Oppression and Injustice introduced, to the Reproach of this Government :

Now, for the Prevention thereof for the future :

No Allowance to be made for the depreciating of the Bills where any Thing has been allow'd already for it.

Be it enacted by the Governour, Council and House of Representatives, That in all Actions hereafter to be brought for the recovering any Debt or Sum due upon Bond, or otherwise contracted and payable in Bills of Credit since the thirty first Day of March One Thousand seven Hundred and forty two, or that may be contracted within five Years of that Date, if the Debtor will tender his Oath in Court that the Creditor has received any Thing for the Loan or Forbearance of such Debt either in Money, Bills, Goods, or by any new Bond, Bill, Note of Hand, Order, or under Colour of being paid for any Service or Thing, or by keeping back any Part of the Sum specified to be paid in the Condition of any Bond or other Specialty, or by any other Way or Means whatsoever, either directly or indirectly, more than six Pounds for the Loan or Forbearance of one Hundred Pounds for a Year, and so after that Rate for a greater or less Sum, or for a longer or shorter Time, then and in such Case, unless the Owner will make Oath to the contrary, Judgment shall be made up only for the exact nominal Sum received by or due from the Debtor (with lawful Interest for the same, if it be payable with Interest) but if the Creditor will tender and actually give his Oath as aforesaid, then Judgment shall be entred up for the full Value of said Debt, as it was at the Time of contracting the same.

And

Ascertaining the Value of Money.

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And whereas there may be Debts and Sums payable in Bills of Credit or lawful Money yet due and owing from Man to Man, that were contracted before the said thirty first Day of March One Thousand seven Hundred and forty two, and no Provision made in the Law for making good to the Creditors what the Bills, in which such Debts or Sums might be discharged, have depreciated or fallen : And inasmuch as it appears just and equal that the Loss and Damage arising to such Creditors by the falling and depreciating of the Bills of Credit since the said thirty first Day of March, should be made good :

Be it further enacted, That in all such Cases it shall be in the Power of the Justices of the several Courts within this Province, to make up Judgment for such additional Sum or Sums as the said Bills shall be found to have depreciated from the said thirty first Day of March, until the Time of making up such Judgment, but not for any other or longer Time ; in which Judgment the same Rule shall be observed as in Case of Debts contracted after the said thirty first Day of March, as in this Act is before provided ; saving always to the Debtor the same Relief in Case he has in any Manner or Way, directly or indirectly paid or allowed more than six per Cent. as aforesaid, as is provided for him in this Act respecting any Debt or Sum that was contracted or agreed upon after the said thirty first Day of March.

Provision for making good the Value of the Debts before March 31. 1742.

And whereas many of His Majesty's Subjects in this Province, from an Apprehension that the Bills of Credit of the new Tenor were to be valued, taken and esteemed as lawful Money, from which Apprehensions many Persons have obliged themselves by their Bonds and otherways, to pay lawful Money where nothing but said Bills were received, or Goods for which the Creditor would have received Bills in Payment, nor was any Thing else intended or expected by either Party at the Time of contracting the Debt ; notwithstanding which, some of the executive Courts of this Province have, contrary to the Expectation and Intention of the Parties as aforesaid, made up their Judgments on said Debts for lawful Money only, and construed the same not to be payable in said Bills, whereby the Debtor has been capable of discharging or satisfying the Execution only with Silver, the extream Scarcity of which renders it almost impracticable to satisfy the Debt without paying such additional Sum to the Creditor as he will be pleased to take in said Bills, much to the Debtor's Oppression, which this Government ought to prevent :

Wherefore,

Be it enacted, That when any Sum or Sums of Money, due or contracted for since the first Emission of the said New Tenor Bills in the Year One Thousand seven Hundred and forty one, or that shall be contracted for within the Space of five Years from that Date, on Bond, Bill, Note, or otherwise, whether with Interest or without, if the Debtor will tender his Oath that he received of the Creditor no Silver on which said Debt or Sum then sued for arose, or that it was not agreed by the Parties that Silver should be paid in Discharge of such Debt or Sum due, that then and in every such Case, unless the Creditor will bonâ fide make Oath that Silver was received or agreed for, and understood, and intended to be paid by the Parties at the Time of contracting the said Debt or Agreement for the Sum sued for, the Judgment shall be given for Bills of Credit or lawful Money at the Debtor's Election, allowing in such Judgment for what the said Bills may have depreciated from the thirty first Day of March One Thousand seven Hundred and forty two, to the Time the Judgment is made up.

Judgment to be given only for Bills where Silver was not lent or received.

Saving always, To the Debtor the same Relief in Cases of this Nature which is by this Act already provided for him, where more than six per Cent. has been paid for the Loan or Forbearance of any Sum as aforesaid.

C H A P. III.

10 A. ca. 2.
25 G. 2. ca. 2.

An Act for the more speedy Extinguishment of Fire, and preserving Goods indangered by it.

Preamble.

WHEREAS the Contiguity or Nearness of Houses in many Towns in this Province makes it difficult when they accidentally take Fire, to preserve them, and prevent its spreading, by Reason of the Inhabitants being terrified by so grievous a Calamity, and the Want of proper Persons appointed to direct such as may be ready to assist : And moreover ill-minded Persons take the Advantage of the Hurry and Confusion attending such Accidents to plunder, and to embezzle the Goods of their distressed Neighbours :

Wherefore,

All Towns
impowered to
chuse Fire
Wards.

Be it enacted by the Governour, Council and House of Representatives, That the several Towns within this Province may, if they see fit, at their anniversary Meeting in *March* annually appoint a suitable Number of Persons (not exceeding ten) who shall be denominated Fire-Wards, and have each for a distinguishing Badge of the Office, a Staff of five Feet long, painted Red and headed with a bright Brass Spire six Inches long.

Their Duty.

And the Fire-Wards afore-mentioned are hereby required, upon Notice of the breaking forth of Fire, (taking with them their Badges respectively) immediately to repair to the Place, and vigorously exert themselves in requiring and procuring Assistance to extinguish and prevent the spreading of the Fire, and for the pulling down or blowing up any Houses, or any other Service relating thereto, as they may be directed by two or three of the chief civil or military Officers of the Town, to put a Stop to the Fire, and in removing Household Stuff, Goods and Merchandizes out of any Dwelling Houses, Store-Houses, or other Buildings actually on Fire, or in Danger thereof, in appointing Guards to secure and take Care of the same, and to suppress all Tumults and Disorders. And due Obedience is required to be yielded to them, and each of them accordingly for that Service.

Penalty for
refusing to
assist them in
extinguishing
of Fire.

And all Disobedience, Neglect or Refusal in any, shall be informed of to some of His Majesty's Justices of the Peace within two Days next after, and the Offenders therein upon Conviction thereof before any two Justices *Quorum Unus*, shall forfeit and pay the Sum of *forty Shillings* each, to be levied and distributed by the Discretion of the Select-Men among the Poor most distressed by the Fire : And in Case the Offender or Offenders are unable to satisfy the Fine, then to suffer ten Days Imprisonment.

Penalty for
Persons pur-
loining or
concealing
Goods sav'd
from the Fire.

And be it further enacted, That if any evil-minded Persons shall take Advantage of such Calamity to rob, plunder purloin, embezzle, convey away or conceal any Goods, Merchandizes or Effects of the distressed Inhabitants, whose Houses are on Fire, or endangered thereby, and put upon removing their Goods, and shall not restore and give Notice thereof to the Owner or Owners, if known, or bring them into such publick Place as shall be appointed and assigned by the Governour and Council, within the Space of two Days next after Proclamation made for that Purpose ; the Person or Persons so offending, and being thereof convicted, shall be deemed Thieves, and suffer the utmost Severities of the Pains and Penalties by Law provided against such.

Rates and Taxes.

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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-ninth Day of *May*, 1745. And continued by Adjournments and Prorogations to Wednesday the eleventh Day of *December* following.

C H A P. I.

An Act in Addition to an Act, Intituled *An Act directing how Rates and Taxes to be granted by the General Assembly, as also County Town and Precinct Rates shall be assessed and collected*; made and passed in the fourth Year of his present Majesty's Reign.

WHEREAS no Provision is made (in the Act Intituled An Act directing how Rates and Taxes granted by the General Assembly, as also County Town and Precinct Rates shall be assessed and collected) for appointing Collectors or Constables, where Towns neglect to choose them: whereby unless there be some Remedy, the good Design of said Act to secure the Payment of the Taxes granted by the General Assembly will be frustrated:

Preamble.

4 G. 2. ca. 1.

Be it therefore enacted by the Governour, Council and House of Representatives, That where any Town or Towns have neglected or shall neglect to choose Constables or Collectors to gather the Rates or Taxes granted by the General Court, that in such Case the Sheriff of the County shall be and hereby is impowered and directed to collect such Rates or Taxes, having received an Assessment made of the Proportion of the several Persons rateable in such Town, together with a Warrant under the Hands of such Assessors as shall be appointed by the Court of General Sessions of the Peace in the County where such deficient Town lies, according to the aforesaid Act of the fourth Year of his present Majesty's Reign; and the said Assessors are hereby directed where any Town has for divers Years past or shall for several Years together hereafter neglect to choose Assessors or Constables and Collectors to add together the several Sums annually due, as also the several Fines of *twenty Pounds* due for each Year's Neglect, and their own Allowance by Law established to be proportioned among the several Inhabitants and others rateable in such Town according to their best Judgment.

Sheriff impowered to collect Rates or Taxes in Towns that have or shall neglect to choose Constables or Collectors.

And be it further enacted by the Authority aforesaid, That the Sheriff upon receiving the aforesaid Assessment and Warrant for collecting it, shall forthwith post up in some publick Place of the Town assessed, an attested Copy of such Assessment and Warrant, and shall make no Distress for any of the Sums so assessed till after thirty Days from his posting it up; and any Person or Persons paying the Sum or Sums respectively assessed on him or them to the Sheriff before the Expiration of the aforesaid thirty Days, shall pay at the Rate of *five per Cent* over and above to the Sheriff for his Fees, and no more: But all such as shall neglect to pay the Sum or Sums assessed for the space of thirty Days or longer from the aforesaid posting up the Copy of the Assessment, shall be proceeded against by the Sheriff in Way of Distress as Collectors by Law are impowered, and may require suitable Aid for that Purpose, and they shall each one pay the Fees for the Sheriff's Service and Travel as in other Cases where Distraint is made.

Sheriff to post up Copy of Assessment and Warrant.

And to the Intent the Courts of General Sessions of the Peace in the several Counties where such deficient Towns shall respectively belong, may from Time to Time seasonably appoint Assessors as needful:

Treasurer to
send a Certi-
ficate to the
Clerk of the
Court of Ge-
neral Sessions
of the Coun-
ty where de-
ficient Towns
belong.

Be it enacted by the Authority aforesaid, That the Province Treasurer for the Time being shall as soon as may be after he hath issued his Warrants to the Assessors of the several Towns for assessing and collecting the Rates and Taxes granted by the General Assembly for the Space of sixty Days, without any Account of such Towns choice of Collectors or Constables, whether it be a Town that hath neglected to make such Choice, or that hereafter shall neglect so to do, in every such Case the said Treasurer shall send a Certificate to the Clerk of the Court of General Sessions of the Peace for the County whereto the deficient Town belongs, of such their Deficiency, who shall lay it before said Court of Sessions at their next Sitting; whereupon the said Court shall forthwith proceed to appoint Assessors to assess and proportion the Rates and Taxes granted as aforesaid, and the Assessors so appointed, shall as soon as may be take an Oath to the faithful Discharge of their Trust before the said Court or some one or more of the Justices by the Court of Sessions to be appointed for that Purpose; and if any Person appointed an Assessor as aforesaid shall refuse to serve, he shall forfeit the Sum of *Twenty Pounds* to His Majesty for the Use of the Province; and the Court of Sessions shall immediately proceed to appoint others.

C H A P. II.

An Act in Addition to and for rendring more effectual the Laws already in being for preventing the Destruction of the Fish called *Alewives* and other Fish.

15 G. 2. ca. 6.

Preamble.

WHEREAS in and by an Act made in the fifteenth Year of his present Majesty's Reign, intituled An Act in Addition to an Act made to prevent the Destruction of *Alewives*, and other Fish, it is provided, "That all Persons that should hereafter build any Mill-Dam or Dams, or that had before the Time of passing the same, built any Dam a-cross any such River or Stream where the *Salmon, Shad, Alewives*, or other Fish, usually pass up into the natural Ponds to cast their Spawn, shall make or open a sufficient Passage Way for the Fish to pass up such River or Stream through or round such Dam, and shall keep it open for the free Passage of the Fish from the first Day of *April* to the last Day of *May* annually, and also that a sufficient Water Passage round through, or over such Dam, should be made for the Passage of such Fish or their young Spawn in the Season of their going down such River or Stream, on Penalty of *fifty Pounds*, for every Offence."

And in and by an Act made in the seventeenth Year of his present Majesty's Reign, intituled An Act in Addition to an Act made in the fifteenth Year of his present Majesty's Reign, intituled An Act in Addition to an Act made to prevent the Destruction of the Fish called *Alewives*, and other Fish, it is provided, "That it shall and may be lawful for any Owner or Occupant of any such Dam or Dams already built, or that may hereafter be built, and who are or may be obliged by said additional Act to open or leave open such Passage as aforesaid, to apply to the next Court of General Sessions of the Peace to be holden in and for the County where such Mill-Dam is; and the Justices of the Court respectively, on such Application, are impowered and directed to appoint a Committee of three sufficient, and as much as may be, disinterested Persons under Oath, to repair to the Dam where such Passage is proposed to be opened, and carefully view the same, and in the best Manner they are able to inform themselves of the most proper Place for the Passage of such Fish up and down Stream, of what Dimensions the same shall be, or be appointed to be made, and what Part of each Year, and how long the same shall be kept open, and return the same under their Hands, or the Hands of the major Part of them, to the said Court for their Acceptance, which Return so made and accepted shall be deemed and adjudged the lawful Rule of Proceeding in making and keeping open the Passage and Passages for the Fish

" in

Alewives and other Fish.

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" in passing up and down the Rivers and Streams for the future ; any Thing contained to the contrary in said additional Act notwithstanding."

And whereas it may happen that in some Rivers or Streams, a-cross which Dams are built, it may be doubtful whether the Fish may be said usually to pass or cast their Spawn, and so as to render it necessary that a Way should be left open in such Dams for their free Passage, and many Inconveniencies may arise from such Doubt or Uncertainty :

Be it therefore enacted by the Governour, Council and House of Representatives, That when and so often as Application shall be made to the Court of Sessions by the Owner or Occupant of any Mill-Dam or Dams, either of such Dams as have no Passage Way or of such Dams through which a Passage Way has already been made, and a Committee shall thereupon be appointed by such Court pursuant to the last recited Act, and such Committee shall repair to any Dam or Dams, and it shall appear to them upon Inquiry that the Fish do not, or in Case of a Passage being made or kept open would not usually pass up the River or Stream a-cross which such Dam is or shall be built, in such Numbers as that it is necessary a Passage Way through such Dam should be made or kept open, or that the passing of the Fish up such River will not be of greater general Benefit than the leaving open of Passage Ways, in such Dams will be of Damage to the Owners of the Mills and other Persons, then and in either of such Cases, said Committee shall be impowered to make a Report that such Passage Way is not necessary, and such Report being accepted by the Court of Sessions, the Owner or Occupant of such Dam shall thereupon be freed from all Obligation to make or keep open any Passage ; any Thing in the afore-mentioned Acts to the contrary notwithstanding. And the Charge of the Application that shall be made by the Owner or Occupant of any Mill-Dam or Dams, and all Proceedings of the Court thereupon, pursuant to this Act, or to the said last recited Act, shall be born and paid by such Owner or Occupant.

Court of General Sessions to determine the Expediency of Dams, &c upon the Report of a Committee.

Provided always, That if at any Time after such Determination, any Person apprehending it necessary that a Passage Way should be opened in such Dam, shall thereupon make Application to the Court of Sessions, said Court shall be impowered to appoint a new Committee, who shall have the same Power the first Committee by Law had, or might have had, and upon such Committee's reporting that a Passage Way is necessary in such Dam or Dams, and the Dimensions thereof, and the Time it shall be kept open, and upon such Report being accepted by the Court of Sessions, the Owner or Occupant of such Mill or Dam shall be as fully obliged to keep open such Passage as if the former Report had never been made and accepted ; any Thing in this Act to the contrary notwithstanding. The Charge of such Application and all Proceedings thereupon to be paid by the Person or Persons making the same, or by the Owner or Occupant of such Dam, as the Court of Sessions shall order.

Proviso.

And whereas in some Counties within this Province the Justices of the Court of Sessions have refused to admit any Application from the Owner or Occupant of any Mill or Mill Dam by Reason that such Application has not been made at the Court next immediately following the Publication of the last recited Act :

Preamble.

Be it further enacted That the several Courts of Sessions within this Province be and hereby are impowered and directed to admit, proceed and determine upon any such Application at any Court at any Time held for the County, and all such Proceedings shall be deemed as valid to all Intents and Purposes as if they had been acted upon at the Court next immediately following the Publication of said Act.

Further Power of the Court of Sessions.

And whereas in many Rivers or Streams within this Province neither Shad, Salmon, nor Alewives usually swim, or would pass up such River or Stream, altho' a Passage Way was made and kept open through the several Dams built a-cross such Rivers or Streams, and the Advantage of other Fish that pass up such Rivers or Streams is not equal to the Damage that may arise by keeping open a Passage Way through such Dams :

Preamble.

In what Case
Mill Dam or
Dams are to
be kept open

Be it therefore enacted, That no Owner or Occupant of any Mill Dam or Dams built or to be built within this Province, shall be liable to any Penalty for not making or keeping open a Passage Way through such Dam or Dams, except those Dams only which are built a-croſs thoſe Rivers or Streams where either of the afore-mentioned Fiſh, viz. *Shad*, *Salmon* or *Alewives* uſually ſwim or paſs ; any former Law, Uſage or Cuſtom to the contrary notwithstanding.

Application
may be made
to the Court
of Sessions
relating to
Dams, &c.

Provided always, That it ſhall be in the Power of any Perſon at any Time to make Application to the Court of Sessions, ſetting forth that the Paſſage of other Fiſh up ſuch Rivers or Streams is of ſuch Advantage as to render a Paſſage Way through any Dam or Dams neceſſary, and the Juſtices of the Court of Sessions are impowered on ſuch Application to appoint a Committee to repair to ſuch Dam or Dams, and upon ſuch Committee's reporting that a Paſſage Way or Ways for the Fiſh is neceſſary, the Dimensions thereof, and the Time for keeping it open, and upon ſuch Report's being accepted, the Owner or Occupant of ſuch Dam or Dams ſhall be as fully obliged to make and keep open ſuch Paſſage Way or Ways as if *Shad*, *Salmon* or *Alewives* uſually paſſed up ſuch River or Stream.

Preamble.

And whereas the Mill-Dam in the Town of Watertown referred to in the aforeſaid Act of the Fifteenthth of his preſent Maſteſty, has not been ſubjected in like Manner with the other Mill Dams within this Province :

Mill-Dam in
Watertown
not to be rai-
ſed in a cer-
tain Time,
except &c.

Be it therefore enacted, That if any Perſon or Perſons whatſoever ſhall cauſe the Dam of ſaid Mill to be raiſed, ſo as to prevent the Paſſage of the Fiſh over the ſame at any Time between the breaking up of the Ice in the Winter or Spring and the firſt Day of *May* annually, and in any Year hereafter, without the expreſs Leave or Conſent of the Select-Men of the Towns of *Watertown* and *Newtown*. every Perſon ſo offending ſhall forfeit and pay the Sum of *five Pounds* for each Offence, to be recovered in any Court of Record proper to try the ſame, and for the Uſe of him or them that ſhall inform and ſue therefor.

C H A P. III.

4 W. & M.
ca. 8.

An Act for the Explanation and further Enforcement of the
Laws made for the Obſervation of the Lord's Day.

Preamble

WHEREAS in and by an Act made and paſſ'd in the fifteenth Year of his preſent Maſteſty's Reign, Intituled An Act in further Addition to the ſeveral Acts for the Obſervation and keeping of the Lord's Day, it is enacted, " That His Maſteſty's Juſtices of the Peace ſhall bind over the
" Offenders againſt that Act to appear before the next Court of General Sessions
" of the Peace for the County where the Offence ſhall be committed &c.

And whereas it ſo happens, that divers ſuch Offenders are Strangers, and not Inhabitants in the Town where the Offence is committed. nor of any other Town in this Province, and Perſons ſo mean and obſcure that they cannot afterwards be found, ſo that without a ſpeedy Way of proceeding againſt them, they will have an Advantage to avoid Juſtice, and with reſpect to ſuch Perſons the good Intent of the ſaid Law may be thereby wholly fruſtrated and defeated. And whereas a Doubt has ariſen in divers Perſons, who are enjoined by Law to put in Execution the Laws made for the due Obſervation of the Lord's Day, whether the Act above-mentioned does not repeal ſome Clauſes in an Act made in the fourth Year of King William and Queen Mary, for the better Obſervation and keeping of the Lord's Day, and other ſubſequent Acts made for the ſame good Purpoſes ; and through theſe Means there have been great Neglects of proſecuting and puniſhing Perſons guilty of the Prophanation of the Sabbath :

Now to prevent the evil Conſequences of ſuch wrong Conſtructions of the Laws in that Caſe made and provided :

Ascertaining the Value of Money.

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It is hereby declared by the Governour, Council and House of Representatives. That it is not the true Intent and Meaning of the first mentioned Act made in the fifteenth Year of his present Majesty's Reign to repeal any of the precedent Laws made for the Observation of the Lord's Day, or any Paragraphs or Clauses thereof, but that the same ought to remain in full Force and Virtue.

Precedent Laws relating to the Lord's Day not repeal'd, but remain in full Force and Virtue.

And it is hereby accordingly enacted, That the said precedent Laws do and shall remain in full Force and Virtue, as if the said Act of the fifteenth Year of his present Majesty's Reign had never been made: Saving that by the said Act His Majesty's Justices of the Peace have Liberty given them to prosecute the Offences therein mentioned in the Manner as is therein directed, if they judge it will best answer the general Intention of the Laws for the better Observation of the Lord's Day.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twentyseventh Day of *May*, 1747. And continued by Adjournments to Wednesday the twelfth Day of *August* following.

C H A P. I.

An Act in further Addition to and for Explanation of certain Clauses in three several Acts herein after mention'd made and pass'd in the fifteenth, seventeenth and eighteenth Years of his present Majesty's Reign, for ascertaining the Value of Money, and of the Bills of publick Credit of this Province.

15 G. 2 ca 4.

WHEREAS in and by an Act made and pass'd in the fifteenth Year of his present Majesty's Reign, intituled, An Act to ascertain the Value of Money and of the Bills of publick Credit of this Province granted this present Year for the supply of the Treasury, and for securing the Credit of said Bills; the several Courts of Judicature are directed in making up Judgments for Debts that should be contracted within the Term of five Years therein limited (except as therein excepted) in Case the Province Bills by said Act emitted, or that should thereafter be emitted, should be depreciated below the Value they were set at by said Act; to allow the Creditor so much in said Bills, as should make amends for their Depreciation below their then stated Value, or the Value at which such other Bills should be stated; And whereas in the Rule by said Act prescribed for determining the Value of such Bills from Time to Time for the Purpose aforesaid only Silver and Bills of Exchange are made the Standard whereby said Bills are to be estimated in order to the Payment of private Debts to be contracted within the Time aforesaid; which Rule by Experience has been found to be unequal, and not to answer the good Intention of the said Act, inasmuch as the Bills of Credit, being the only Medium of Trade and Commerce in this and the other Governments in New-England, their Value cannot be truly estimated by the Prices of any one or two particular Commodities or Merchandizes, such as Bills of Exchange and Silver now are and have for several Years past been within this and the aforesaid other Colonies, and the Prices of which in Bills of publick Credit have been found liable to be very suddenly and immoderately increased by a few Persons for the sake of serving their own particular Trade or Interest, whereby the

Preamble.

Bills

Aſcertaining the Value of Money.

Bills of Credit have often been to the great Grievance of Debtors much depreciated with reſpect to Bills of Exchange and Silver, tho' at the ſame Time they have kept their Value with reſpect to all other Commodities and Merchandizes in this Province :

Now for preventing any future Inconvenience which may ariſe to the Debtor from eſtimating the Value of Bills of Credit by comparing them with the Prices of Bills of Exchange and Silver alone ;

Price of Proviſions &c. to be conſider'd in the Valuation of the Bills.

Be it enacted by the Governour, Council and Houſe of Representatives, That when any Valuation ſhall be made of the Bills of publick Credit on this Province in Purſuance of ſaid Act, and for the Purpoſes therein mentioned, regard ſhall be had not only to Silver and Bills of Exchange, but to the Prices of Proviſions and other Neceſſaries of Life, and to the Difference that may ariſe from the Plenty or Scarcity of them, or other Circumſtances which may caſually occaſion the riſe or fall of them, at the reſpective Seasons wherein ſuch Valuation ſhall be made as aforeſaid.

And whereas the aforemention'd Act directs that the Valuation of the Bills of publick Credit as aforeſaid for the Purpoſes aforeſaid, ſhall be made once in every ſix Months by the General Aſſembly, and in want thereof by a Committee conſiſting of the eldeſt Councillor for the Time being, in each of thoſe Counties, where any Member of his Maſteſty's Council is an Inhabitant : And whereas the ſaid Act doth not expreſſly declare that the Determination made by any Number of the ſaid Committee ſhort of the whole, ſhall be accounted valid for the Purpoſes aforeſaid ; and Doubts and Diſputes have thereupon ariſen :

For Prevention whereof for the future :

Five Councillors to be a Quorum for valuing the Bills.

Be it enacted by the Governour, Council and Houſe of Representatives, That any five of the ſaid Councillors ſhall be a Quorum, and every Valuation of the Bills of publick Credit to be made by the whole Number of the ſaid Councillors or the major Part of ſuch of them as ſhall convene and be preſent, at the Time of making the ſame (provided the Number preſent be not leſs than five, and that due Notice has been previously given to the reſt that ſhall then be within this Province, of the Time, Place and Occaſion of their Meeting) ſhall be deemed and counted valid in the Law, for the Purpoſes in ſaid Act mentioned.

And whereas altho' the Method of making up Judgment on private Debts (with Allowance for the ſinking of the Value of the Province Bills) as preſcribed in the aforeſaid Act, and in another Act made and paſſ'd in the eighteenth Year of his preſent Maſteſty's Reign, intituled, An Act in further Addition to an Act for aſcertaining the Value of Money, and of the Bills of publick Credit of this Province, is limited to Debts contracted within or before certain Periods mentioned in ſaid Acts reſpectively, and is not extended to Debts thereafter to be contracted ; yet unleſs ſome certain Term of Time be limited for calling in ſuch Debts, and for the Continuance of the aforeſaid Method of making up Judgment thereupon, many of ſaid Debts may be long outſtanding, and in Conſequence thereof it will be requiſite (for a Rule to the executive Courts in their Proceedings) that a Valuation of ſaid Bills be from Time to Time made either by the General Aſſembly or ſuch others as by Law are appointed for that Service, till every of thoſe Debts ſhall be diſcharged, how long ſoever that Time may be protracted, to the Hindrance and Interruption of the publick Affairs of the Province, or to the great Trouble, Expence and loſs of Time to thoſe concerned therein.

For Prevention of which and other Inconveniencies ;

Limitation of the Time for bringing Actions on this Act.

Be it enacted by the Governour, Council and Houſe of Representatives, That in all and every Action and Actions which ſhall be brought from and after the laſt Day of September, which will be in the Year of our Lord, One Thouſand ſeven Hundred and forty Nine, the aforeſaid Method of making up Judgments in the ſeveral executive Courts of this Province, on all Debts and Dues contracted before the laſt Day of March, One Thouſand ſeven Hundred

Ascertaining the Value of Money.

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Hundred and forty seven, by Virtue or in Consequence of the Power and Directions given in the Acts aforesaid, or either of them, shall cease and determine, and no Allowance shall be made in making up such Judgments for any Depreciation of the Bills of Credit, unless the Debt on which such Action shall arise, did not become payable 'till after the last Day of *September*, Anno Domini One Thousand seven Hundred and forty Nine, or unless the Creditor now be and shall continue out of this Province 'till after the Expiration of the said Term, and have no lawful Agent or Attorney therein, or be a Person *non Compos Mentis*, and have no lawful Guardian, or be under some other legal Incapacity of bringing his Action for the Recovery of such Debt within the Term herein before limited for that Purpose. And if after that Term Suit shall be brought for any such Debts, Judgments shall be made up according to the last Valuation that shall have been then made. Saving.

And whereas in and by an Act made and pass'd in the seventeenth Year of his present Majesty's Reign, entitled ; An Act in Addition to and in Explanation of sundry Clauses of an Act entitled ; An Act to ascertain the Value of Money, and of the Bills of publick Credit of this Province, made and pass'd in the fifteenth Year of his Majesty's Reign ; It is enacted, " That all Debts " contracted since the last of March, One Thousand seven Hundred and " forty Two, or that shall thereafter be contracted (Specialties and expresse " Contracts excepted) shall be deemed and adjudged equal to the real Value " only such Bills have passed or shall pass at when such Debt was or shall be " contracted ; and every Debt of twenty Shillings contracted as aforesaid shall " or may be always hereafter discharged by twenty Shillings in said Bills and " so pro rata for a greater or less Sum, unless such Bills have already or should " hereafter be depreciated below the Value they passed at when such Debt was " or shall be contracted ; and in such Case so much shall always be allowed by " the respective Courts in this Province as shall make said Bills equal in Value " to such Debt when contracted." Preamble.

And whereas the Debts referred to in the said Act appear by the purview thereof, to be such only as then had been or should be contracted within five Years from the last Day of March, One Thousand seven Hundred and forty Two, yet as the said Act has by some been construed to extend to Debts to be contracted after the Expiration of said Term ; and in Consequence of such Construction (if admitted) many Inconveniencies may arise :

Wherefore for Prevention thereof, and for removing any Doubts or Disputes touching the Meaning of said Act in the Case before mentioned :

Be it enacted and declared by the Governour, Council and House of Representatives, That the Debts referred to and intended in the last herein before recited Act are such only as had been or should be contracted within the before-mentioned Term of five Years from the last Day of March One Thousand Seven Hundred and forty two, and that the Rule therein given to the Courts of Judicature respecting the Allowance to be made for the Depreciation of the Bills of publick Credit, was intended and shall be adjudged, construed, and taken to be restrained to Debts, contracted within the Term aforesaid, and not to extend to any other whatsoever. Time for contracting Debts that are to have Benefit upon Depreciation of the Bills stated.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-seventh Day of *May*, 1747. And continued by Adjournments and Prorogations to Wednesday the third Day of *February* following.

C H A P. II.

An Act for altering the Times appointed for holding the Superiour Court of Judicature, Court of Assize, and General Goal Delivery within and for the Counties of *Essex* and *Bristol*.

11 W. ca. 3.

Preamble.

WHEREAS the Times by Law appointed for holding the Superiour Court of Judicature, Court of Assize, and General Goal Delivery at *Salem*, within and for the County of *Essex*, and at *Taunton*, within and for the County of *Bristol*, are found to be inconvenient :

Alteration of
Courts at *Sa-*
lem and
& *Taunton*.

Be it therefore enacted by the Governour, Council and House of Representatives, That the Time for holding the said Superiour Court of Judicature, Court of Assize and General Goal Delivery at *Salem*, for the County of *Essex*, shall henceforth be the third Tuesday in *October* annually : And the Time for holding the said Court at *Taunton*, for the County of *Bristol*, shall henceforth be the second Tuesday in *May* annually : And all Officers and other Persons concerned, are required to conform themselves accordingly.

And be it further enacted, That all Appeals, Writs of Review, Recognizances, Warrants, and other Process already issued, taken or depending in the said County of *Bristol*, which were to have been returned or proceeded on at the Time heretofore appointed by Law for holding the said Court at *Taunton*, shall be valid and stand good to all Intents and Purposes in the Law ; and shall be returned and proceeded on at the Time appointed by this Act for holding the same.

C H A P. III.

An Act for explaining an Act intituled, *An Act to prevent and make void clandestine and illegal Purchases of Lands from the Indians*, so far as relates to the Devise or Bequest of any Real Estate by the last Will and Testament of any Indians.

13 W. ca. 21.

Preamble.

WHEREAS Doubts have arisen, whether the Act pass'd in the thirteenth Year of King William the third, Intituled, *An Act to prevent and make void clandestine and illegal Purchases of Lands from the Indians ; doth extend to any Devise or Bequest of Real Estate made by the last Will and Testament of any Indian :*

Explanation
of an Act re-
lating to In-
dians selling
Lands.

Be it therefore declared and enacted by the Governour, Council and House of Representatives, That the said Act was intended to extend, and did, doth and ought to be understood to extend to all Devises of Real Estates made by the last Wills and Testaments of any of the said Indians : And all such Devises of Lands or other Real Estate whatsoever by any last Will and Testament from any Indian or Indians inhabiting within this Province, to any English Person or Persons that have been heretofore made, and have not been approved by the General Court ; and also all such as shall hereafter be made, unless the Approbation of the General Court shall be obtained, are hereby declared utterly void and of no Effect.

Redeeming Bills of Credit.

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Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May* 1748. And continued by Prorogation and Adjournments to Wednesday the twenty-first Day of *December* following, and then met.

C H A P. I.

An Act for drawing in the Bills of Credit of the several Denominations which have at any Time been issued by this Government and are still outstanding, and for ascertaining the Rate of coin'd Silver in this Province for the future.

15 G. 2. ca. 4.

WHEREAS the Sum of One Hundred and eighty three Thousand six Hundred and forty nine Pounds two Shillings and seven Pence half Penny Sterling Money has been granted by the Parliament of Great-Britain, for reimbursing to this Province their Expences in taking and securing Cape-Breton :

Preamble.

Be it enacted by the Governour, Council and House of Representatives, That the honourable Sir *Peter Warren*, Knight of the Bath, *William Bollan*, Esq; Agent for this Province, and *Eliakim Palmer*, Esq; of *London*, Merchant, they or two of them, (the said *William Bollan* Agent as aforesaid, except in Case of his Death always to be one) be and are hereby authorized and impowred to give a full Discharge to the right honourable the Lords Commissioners of the Treasury for the Sum granted as aforesaid whensoever the same shall have been issued, or to the Bank of *England*, in Case the same shall have been there deposited, or to any Person or Persons in whose Possession or Custody soever the same is or shall be; to prefer the humble Address of the General Court of this Province to the King's most excellent Majesty, that he would be graciously pleased to order the said Sum to be transported to this Government in foreign coin'd Silver, on board some one or more of his Majesty's Ships; and to pursue such Instructions as the said General Court shall judge necessary concerning the Transportation of the said granted Sum to this Province.

Persons impowred to act for the Province in taking Care of the Money granted by Parliament for the Charge at Cape-Breton.

And be it further enacted, That the Treasurer of the Province for the Time being, be and hereby is fully authorized and impowred to demand and receive the whole and every Part of the Money aforesaid from the Commander of any Vessel or Vessels on board of which the same shall be ship'd upon the Arrival thereof within this Government.

The Province Treasurer impowred to receive said Money on its Arrival.

And be it further enacted, That from and after the thirty-first Day of *March* which shall be in the Year of our Lord One Thousand seven Hundred and fifty, the Possessor and Possessors of each and every of the Bills of Credit of this Province which shall then be outstanding, upon bringing such Bill or Bills to the Treasurer aforesaid, shall be intitled to and receive in Exchange for every such Bill or Bills Silver at the Rate following, viz. for every forty five Shillings, in Bills commonly known and understood by Bills of the old Form and Tenor, one Piece of Eight, and for every eleven Shillings and three Pence in Bills of the new Form and Tenor, and also of the middle Form and Tenor, one Piece of Eight, and so proportionably for a greater or less Sum in the Bills of each and any of the Forms and Tenors aforesaid. Provided nevertheless, That if the Possessors aforesaid shall not offer such Bills in Exchange within one Year from and after the said thirty first Day of *March* One Thousand seven Hundred and fifty, all Right or Claim to the Redemption or Exchange thereof shall determine and cease.

The said Money to be exchanged for Bills of Credit.

Redeeming Bills of Credit.

Proviso reſpect-
ing Bills
of the neigh-
bouring Go-
vernments.

Provided always, That ſuch of the Bills of Credit of this Province, as ſhall be the Property of the Inhabitants of *Connecticut, New-Hampſhire, and Rhode-Iſland,* may and ſhall be redeemed or exchanged by the Bills of Credit of each of thoſe Governement reſpectively that may be in the Hands of the Inhabitants of this Government: Any Thing in this Act to the contrary notwithstanding.

Preamble.

And whereas all Debts, Dues, Demands, Bargains and Contracts whatſoever unleſs otherwiſe ſpecially agreed or contracted, are now underſtood to be payable and may be diſcharged by the publick Bills of Credit of this Province, and upon any Action or Actions being brought in the Courts of Judicature within this Province, and Judgment being made upon ſuch Action and Execution iſſued, ſuch Execution may be now ſatisfied and diſcharged by the publick Bills of Credit as aforeſaid, with the Addition of a greater or leſs Sum according to the Time when ſuch Debts were contracted :

Contracts af-
ter March 31.
1750 to be
underſtood to
be in Silver
Money.

Be it enacted, That from and after the thirty firſt Day of *March,* which ſhall be in the Year of our Lord One Thouſand ſeven Hundred and fifty, all Debts, Dues, Demands, Bargains and Contracts, payable in Bills of Credit as aforeſaid, ſhall be underſtood to be payable in coin'd Silver only; and all Executions in Conſequence of any Judgment of Court in all Actions heretofore brought or that may at any Time hereafter be brought for the Recovery of ſuch Debts, Dues, Demands, Bargains and Contracts made and contracted as aforeſaid, ſhall and may be then diſcharged by Silver at the Rate following, *viz.* Every forty free Shillings of ſuch Debts, Dues or Demands which were payable or might be diſcharged by Bills of the old Tenor, ſhall and may be diſcharged by one mill'd Peice of Eight, and every eleven Shillings and three Pence of ſuch Debts, Dues or Demands which were payable or might be diſcharged by Bills of the middle Tenor, or by Bills of the new Tenor, ſhall and may be diſcharged by one mill'd Peice of Eight, with ſuch Addition, according to the Time of contracting; as the Laws of this Province do or ſhall require; and ſo proportionably of any Debt or Demand of greater or leſs Value.

And whereas in and by the ſeveral Acts of this Government for iſſuing the publick Bills of Credit Proviſion has been made for drawing ſaid Bills into the publick Treasury again by certain Taxes which it is provided by ſaid Acts ſhall be laid on the ſeveral Towns in this Government in each of the ſeveral Years from this preſent Year until the Year One Thouſand ſeven Hundred and ſixty :

Repeal of the
Clauses in di-
vers Acts for
Taxes.

Be it further enacted, That the ſeveral Clauſes in the Acts aforeſaid providing for the bringing into the Province Treasury by Taxes the ſeveral Sums in Bills of Credit iſſued by Virtue of ſuch Acts, be and hereby are repealed and declared null and void.

And whereas the Sum granted by Parliament as aforeſaid may prove inſufficient to redeem or exchange the whole Sum which is now outſtanding in ſaid Bills, of Credit at the Rates aforeſaid :

Tax of 275,
000 to be le-
vied in 1749.

Be it further enacted, That there be and hereby is granted unto his moſt excellent Maſteſty a Tax of *ſeventy five Thouſand Pounds* to be levied on Polls and Eſtates both Real and Perſonal within this Province, according to ſuch Rules and in ſuch Proportions on the ſeveral Towns and Diſtricts within the ſame as ſhall be agreed upon and ordered by this Court at their Session in *May* One Thouſand ſeven Hundred and forty nine, to be paid into the publick Treasury on or before the laſt of *December* then next enſuing: And the Tax aforeſaid is hereby declared to be payable in Bills of Credit of the new Form and Tenor, or of the middle Form and Tenor according to their reſpective Denominations, or in Bills of the old Tenor, accounting four for one, or in Spaniſh mill'd Dollars at the Rate of *eleven Shillings and three Pence* each.

Treasurer to
iſſue his War-
rants in Caſe
there be no
Act for ap-
portioning
ſaid Tax.

And be it further enacted, That in Caſe the General Court ſhall not at their Sessions in *May* and before the twentieth Day of *June* One Thouſand ſeven Hundred and forty nine, agree and conclude upon an Act apportioning the Sum which by this Act is engaged ſhall be in ſaid Year apportioned aſſeſſed and

Redeeming Bills of Credit.

and levied, that then and in such Case each Town and District within this Province shall pay (by a Tax to be levied on the Polls and Estates both Real and Personal within their Districts) the same Proportion of the said Sum as the said Towns and Districts shall have been taxed by the General Court in the Tax Act then last preceeding; and the Province Treasurer is hereby fully impowred and directed some Time in the Month of June in the Year One Thousand seven Hundred and forty nine, to issue and send forth his Warrants directed to the Select-Men or Assessors of each Town and District within this Province, requiring them to assess the Polls and Estates both Real and Personal within their several Towns and Districts for their respective Part and Proportion of the Sum before directed, and engaged to be assessed, and the Assessors as also Persons assessed, shall observe, be governed by and subject to all such Rules and Directions as shall have been given in the last preceeding Tax Act; and if there be any Surplusage it shall remain a Stock in the Treasury.

And where as it is provided by this Act that the whole Sum now outstanding in Bills of Credit which have been the Medium and Instrument of Trade and Commerce for many Years past shall be sunk, partly by a Tax, and partly by being exchanged for the Sum granted by Parliament as aforesaid, which Sum may prove sufficient to serve as a Medium instead of said Bills, and it being of great Importance that all possible Means should be us'd for establishing an invariable Silver Currency for the future :

Preamble.

Be it enacted, That all Bargains and Contracts, Debts and Dues whatsoever which shall be agreed, contracted or made after the thirty-first Day of March One Thousand seven Hundred and fifty, shall be understood and are hereby declared to be in Silver at *six Shillings and eight Pence* per Ounce, and all Spanish mil'd Pieces of Eight of full Weight, shall be accounted taken and paid at the Rate of *six Shillings* per Piece for the discharge of any Contracts or Bargains to be made after the said thirty-first Day of March One Thousand seven Hundred and fifty, the Halfs Quarters and other less Peices of the same Coin, to be accounted, received, taken or paid in the same Proportion; and if any Person shall for the discharge of any such Contracts or Bargains account, receive, take or pay any Silver Coin or any of the said Pieces at any greater or higher Rate than that at which the same is hereby regulated and allowed, every such Person so accounting, receiving, taking or paying the same, shall forfeit the Sum of *fifty Pounds* for every Offence, one Moeiety thereof to his Majesty his Heirs and Successors to and for the Use of this Government, the other Moeiety to him or them that shall sue for the same, to be recovered with full Costs of Suit by Action of Debt, Bill, Complaint, or Information, in any of his Majesty's Courts of Record within this Province, or by Presentment of the Grand Jury; and all Persons whatsoever are hereby required to conform their Books and Accounts according to the Regulation aforesaid, any former Usage to the contrary notwithstanding; and any Books and Accounts which shall not be made to conform to the said Regulation shall not be admitted or allowed to be produced in Evidence for the Recovery of any Debt in any of his Majesty's Courts within this Province.

Contracts & Debts to be paid after March 31. 1750 in Silver Money.

Rates of Spanish Money.

Penalty to those who receive or pay Silver Money at any higher Rate.

And where as Bills of Credit have been the only Medium of Trade within this Government for many Years past, and the Bills of Connecticut, New-Hampshire, and Rhode-Island, have passed promiscuously with the Bills of this Government, and the Inhabitants of this Government will be liable to greater Evils than they have ever yet suffered, if the Bills of those Governments continue current within this Province :

Preamble.

Be it further enacted, That if any Person from and after the thirty-first Day of March One Thousand seven Hundred and fifty, shall account receive take or pay any Bill or Bills of Credit of either of the Governments of *Connecticut, New-Hampshire, or Rhode-Island*, in discharge of any Contract or Bargain or for any valuable Consideration whatsoever, every such Person so accounting, receiving taking or paying the same, shall forfeit the Sum of *fifty Pounds* for every

Penalty for receiving or passing Bills of the neighbouring Governments.

Redeeming Bills of Credit.

every Offence, to be recovered and applied in like Manner with the Forfeiture or Penalty for receiving or paying Silver Coin at any higher Rate than is regulated by this Act.

Oath to be taken by Persons chosen to Office that they have not received or paid said Bills.

And be it further enacted, That from and after the last Day of March which shall be in the Year of our Lord One Thousand seven Hundred and fifty, until the last Day of March, which shall be in the Year of our Lord One Thousand seven Hundred and fifty-four, every Person who shall be chosen to serve in any Office in any of the Towns of this Province, shall before his Entrance upon said Office take the following Oath, to be administered by a Justice of the Peace, or where no Justice of the Peace shall be present, by the Town Clerk, who is hereby impowred to administer the same, viz.

Form of the Oath.

YOU A. B. do in the Presence of GOD, solemnly declare, that you have not since the last Day of March 1750, willingly and willingly, directly or indirectly, either by your self or any for or under you, been concerned in receiving or paying within this Government, any Bill or Bills of Credit of either of the Governments of Connecticut, New-Hampshire, or Rhode-Island.

So help you GOD.

Penalty in Case of Refusal to take said Oath.

And where any Person chosen as aforesaid shall refuse or neglect to take the Oath aforesaid on tendering the same, the Town shall proceed to the Choice of another Person in his Room; and where any Person shall be elected during the Term aforesaid by any Town into any Office to the Non-Acceptance or Refusal whereof a Penalty is by Law annexed, such Person neglecting or refusing to take the Oath aforesaid, shall be liable to the same Penalty as is by Law provided for the Non-Acceptance or Refusal of such Office.

Persons chosen Representatives to take the said Oath.

And be it further enacted, That when any Person during the Term aforesaid, shall be chosen to represent any Town within this Province in the General Court or Assembly, such Person so chosen shall take the Oath aforesaid, and Return shall be made by the Select-men upon the Back of the Precept, that the Person so chosen, has taken the Oath required in the Act made and pass'd in the twenty second Year of his Majesty King George the Second, intituled An Act for drawing in the Bills of Credit of the several Denominations which have at any Time been issued by this Government and are still outstanding, and for ascertaining the Rate of coin'd Silver in this Province for the future:

And if any Person so chosen shall refuse or neglect to take the Oath aforesaid, such Refusal or Neglect shall be deem'd a Refusal to serve as a Representative, and the Town shall proceed to the Choice of another Person in his Room.

Councillors to take said Oath.

And be it further enacted, That the Oath aforesaid shall be administered to each of the Members of his Majesty's Council every Year during the Term aforesaid, at the same Time when the usual Oaths required to be taken by the said Members of his Majesty's Council shall be administered. And all Officers civil and military within this Government, who shall be nominated or appointed during the Term aforesaid, shall before they receive their respective Commissions take the Oath aforesaid, and their respective Commissions shall otherwise be void: And all Persons elected into any Office during the Term aforesaid by the General Assembly shall be deem'd not qualified to enter upon the Execution of their respective Offices, until they have taken the Oath aforesaid: And all Officers civil and military appointed by this Government who shall be in Commission in the Month of June One Thousand seven Hundred and fifty three shall some Time in said Month take the Oath aforesaid; and in Case of Neglect thereof their respective Commissions shall become and are hereby declared to be void:

As also Officers chosen by the General Court.

And all other Officers civil and military.

The said Oath to be taken upon issuing Executions on Judgments of Courts.

And be it further enacted, That no Execution shall be issued during the Term aforesaid from the Office of any Clerk of any of the Inferiour Courts of Common Pleas or of the Superiour Courts of Judicature for any Sum whatsoever, unless the Plaintiff or Plaintiffs (suing in his or their own Right and dwelling within this Province) shall first take the Oath aforesaid, and Certificate thereof shall be made on such Execution; and if any Execution shall issue or go forth during the Term aforesaid without such Certificate, the same shall be and is hereby

Redeeming Bills of Credit.

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hereby declared to be void. And no Licence shall be granted to, nor any Recognizance taken from any Taverner, Innholder or Retailer, by the Justices of any of the Courts of Sessions within this Province during the Term aforesaid, until such Taverner Innholder or Retailer, shall have taken said Oath in Presence of the Court, or Certificate of his having so done from a Justice of Peace, shall be presented to the Court. *Provided always*, That when any Inhabitant of this Province shall be sued or have his Person or Estate taken by mean Process, or in Execution for any Debt contracted before the thirty-first Day of *March* One Thousand seven Hundred and fifty, with any of the Inhabitants of either of the Governments aforesaid, upon making Oath that he was possess'd of any Sum in Bills of Credit of the Government to which his Creditor belongs, before the said thirty-first Day of *March* One Thousand seven Hundred and fifty, and has continued to be so possess'd, he shall have Liberty to tender the same; and the Creditor shall be oblig'd to accept the same towards Payment or Discharge of such Debt in like Manner as if this Act had never pass'd. *Provided also*, And it is accordingly to be understood, that if the Bills of Credit of said Governments of *Connecticut, New-Hampshire, and Rhode-Island*, shall be drawn in and sunk, and the Paper Currency of said Governments shall be brought to an End and cease, at any Time before the said thirty-first Day of *March* One Thousand seven Hundred and fifty four, then and in such Case the three last preceeding enacting Clauses of this Act, shall become void and have no further Effect.

Proviso in
Case Persons
are possessed
of the Bills of
the other Go-
vernments.

Proviso in
Case the Bills
of the other
Governments
should be sunk.

And whereas the Sum of One Hundred and eighty three Thousand six Hundred and forty nine Pounds two Shillings and seven Pence half Penny Sterling, granted by Parliament as aforesaid, and the further Sum of Seventy five Thousand Pounds, now granted to be assess'd in Bills of Credit in the Year One Thousand seven Hundred and forty nine, on the Polls and Estates of the Inhabitants of this Province, are by this Act become the sole Fund and Security for the whole Sum in Bills of Credit outstanding, and in Case the said Sterling Sum granted as aforesaid, be not imported into this Province before the said thirty first Day of March One Thousand seven Hundred and fifty, the exchanging the Bills of Credit as is above intended will be rendered impracticable, and, the former Funds or Securities being made void, there will remain a Fund for Seventy five Thousand Pounds only, and the Remainder of the said Bills of Credit will become of no Value to the Possessors :

Acts for draw-
ing in the Bills
to be in Force
in Case the Sil-
ver Money
should not ar-
rive in the Pro-
vince before
the 31st of
March 1750.

It is therefore provided, And it is accordingly hereby Enacted, that if the Sum granted by Parliament as aforesaid, shall not be received within this Government on or before the thirty-first Day of *March* One Thousand seven Hundred and fifty, then and in such Case the several Acts of this Province for drawing in the said Bills, and all and every Part of said Acts, shall be and continue in full Force, any Thing in this Act to the contrary notwithstanding; and all and every Part of this Act shall be void, and have no further Effect.

Saving always, *That whereas the Sum of One Hundred and thirty Thousand five Hundred Pounds in said Bills of Credit is engaged by said Acts to be drawn in by a Tax in the Year One Thousand seven Hundred and forty nine, and by this Act Provision is made for drawing Seventy five Thousand Pounds, Part of said Sum only in said Year, which Part of this Act may have had its Effect, and the Time will be elapsed for drawing in the remaining Part of said One Hundred and thirty Thousand five Hundred Pounds :*

Saving £ 55,
500, which
is to be added
to the Tax
1750.

It is therefore hereby enacted and declared, That in such Case the Sum of *Fifty five Thousand five Hundred Pounds* the remaining Part of said Sum of *One Hundred and thirty Thousand five Hundred Pounds*, shall be and hereby is added to the Tax of *Thirty five Thousand Pounds*, engag'd to be assess'd in the Year One Thousand seven Hundred and fifty, and the Inhabitants of this Province shall be assess'd for said Sum at the same Time and in like Manner and Proportion as is by Law provided that they shall be assess'd for said *Thirty five Thousand Pounds*, and the Treasurer is hereby required to issue his Warrants accordingly.

C H A P. II.

17 G. 2. ca. 3. An Act in further Addition to an Act Intituled *An Act for the more speedy finishing the Land Bank or Manufactory Scheme.*

Preamble. *I*T appearing to this Court, notwithstanding the Provision made for the speedy finishing the Land-Bank or Manufactory Scheme, in the Act of the Seventeenth Year of his present Majesty's Reign, Intituled, An Act for the more speedy finishing the Land Bank or Manufactory Scheme, That there are great Difficulties in the Way of the Commissioners by said Act appointed to finish said Scheme, without the further Aid of this Court, more especially occasioned by the Destruction of the Books and Papers of the said late Land-Bank Company, and of the said Commissioners, in the late burning of the Court House in Boston :

Commissioners impow-
ered and di-
rected to assess
Persons ac-
cording to
the List.

Be it therefore enacted by the Governour, Council and House of Representatives, That the said Commissioners or a major Part of them, be directed and impowered, and hereby they are directed and impowered, as soon as may be, to make an Assessment on those Persons mentioned in a List printed in the Supplement of the *Boston Gazette*, 1745. which List is hereby declared to contain a true and exact Account of the Partners in said late *Land Bank Scheme*, and the said Assessment shall be made for the full Sum in said List, printed in said *Gazette*, and such further Sum as said Commissioners shall judge necessary to redeem all the outstanding Bills of said Company, Principal and Interest, make good Deficiencies by the failing of any Partners, and to defrey the just incidental Charges ; and every Receipt from said Commissioners, or other satisfactory Evidence of Payment on the aforesaid Assessment lately printed in the *Boston Gazette*, shall be taken and received by said Commissioners as Payment for the Sum or Sums they amount to, in the Assessment now directed to ; upon and according to which Assessment now ordered (being first approved by the General Court, after being inserted in all the Weekly News-Papers printed in *Boston*, sixty Days before it's Presentation to the General Court, that all concerned may object if they see Cause) the said Commissioners shall issue their Warrants of Distress against such Partners as shall neglect to pay for sixty Days after the General Court's Approbation : Which Warrant of Distress shall be in the Form following, viz.

Warrants of
Distress to be
issued.

Form thereof. *Province of the } John Jeffries, Samuel Danforth, John Chandler, Esqrs;*
Massachusetts-Bay. } Commissioners for the more speedy finishing the Land-Bank or Manufactory Scheme.

To the Sheriff of the County of A. his Under Sheriff or Deputy,
(or either of the Constables of B) Greeting.

BY Virtue of an Act of the Great and General Court or Assembly of said Province, made at their Session begun and held at *Boston* upon Wednesday the twenty-sixth Day of *October* 1748. Intituled *An Act in further Addition to an Act Intituled, An Act for the more speedy finishing the Land-Bank or Manufactory Scheme*, there was an Assessment made on the late Directors and Partners in said Scheme, for the drawing in the Remainder of the outstanding Bills emitted on said Scheme, which Assessment has been duly published in all the publick News-Papers in *Boston*, agreeable to said Act and passed the Approbation of the General Court ; since which more than sixty Days are passed : In which Assessment A. B. of C. in the County of E. a late Partner in said Scheme, was assessed the Sum of in lawful Money or Manufactory Bills as his Part or Proportion, and altho' publick Notice has been given of said Assessment, as aforesaid, yet the said A. B. hitherto neglects to pay in the same, as is by said Act required :

Wherefore, by Virtue of the Authority to us given in and by the aforesaid Act ; These are in his Majesty's Name, to require you to Levy by Distress, and

Land Bank.

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and Sale of the Estate Real and Personal of the said A. B. the above Sum of lawful Money, and bring the same to us at our Office in *Boston* forthwith, returning the Overplus (if any be) to the said A. B. and if there cannot be found in your Precinct Estate sufficient to discharge the same, then you are to commit the said A. B. if to be found in your Precinct, to the common Goal of the County of E. there to remain until he has paid the said Sum of lawful Money, and Charges; for all which this shall be your sufficient Warrant; save only, that if you shall take the Real Estate of the said A. B. that then the said A. B. his Heirs, Executors, Administrators or Assigns, shall have Liberty for three Months thereafter, to redeem the same, and if the same shall not be Redeemed within three Months as aforesaid, by paying said Sum of and Charges, then you are required to sell the same as aforesaid, and return this Warrant and your Doings thereon, into the Office of the Register of Deeds for the County of E. there to be Recorded.

Given under our Hands and Seals at *Boston*, the Day of
174 in the Year of our Sovereign Lord
by the Grace of God King of Great-Britain, &c.

J. J.
S. D.
J. C.

And all Sheriffs their under Sheriffs and Deputies, and where they are interested all Coroners, and where the Sum exceeds not *ten Pounds* all Constables, are impowred and required to execute them on the Persons whose Names are contained in said List, or their Estates Real or Personal: And as some of said Partners are or may be deceased, or out of the Province, before such Warrant or Warrants of Distress shall be issued, the said Sheriffs, Coroners, and Constables, are hereby impowred and directed to take such Estate as they may find belonged to such deceased Person, or was by Law liable to be taken, if such deceased Person or Persons were then living, and in the Province: The Estate taken whether Real or Personal, to be sold, and the Overplus, if any, to returned as by Law required in ordinary Cases of Execution or Distress, save only that the Liberty of redeeming the Real Estate shall extend to three Months only. after being taken, upon the Expiration of which Term of three Months, if the same be not redeemed, the Sheriff or other Officer who took the same, shall return the Warrant of Distress, with his Doings thereon, into the Office of the Register of Deeds, in the County where the Lands lie. there to be recorded.

Direction to
the Sheriffs
Coroners &
Constables for
executing the
Warrants.

And if there shall be a Surplus in the Hands of the Commissioners after redeeming said Bills, and paying the necessary Charges, the said Commissioners shall divide and pay the same equitably to and among the said late Partners, said Division being first approved by the General Court.

Surplus how
to be disposed
of.

And to the Intent all Possessors of said Land Bank Bills may more readily and easily receive such Sum or Sums as may be due upon or for their Bills:

Be it further enacted, That the said Commissioners, or a major Part of them, shall as soon as they are enabled to redeem them, give publick Notice in all the said Weekly News Papers, of the Time or Times and Place or Places in the Town of *Boston*, when and where they will attend to redeem them; which publick Notice (being inserted six Weeks successively in all the Weekly News-Papers printed in *Boston*) hereby is made and declared to be a legal Tender to all and every Possessor and Possessors of said Bills.

Time & Place
of the Com-
missioners
meeting for
redeeming the
Bills to be pub-
lickly notified.

And for as much as by the said Burning many Papers and Evidences were lost, whereby said Commissioners may be much embarras'd, which might be eased by Papers, Books or Receipts, in other Persons Hands:

Be it enacted and declared, That the said Commissioners be and hereby are authorized and impowred to demand and receive of the late Directors, Treasurer, Endorser, Partners and Clerks of the said late Company, any and all Papers they shall judge needful, giving Receipt for them, and to examine the said Persons on Oath touching the Affairs of said late Company: And the said

Commissioners
impowred to
demand Pa-
pers.

Commissioners or a major Part of them, are directed to meet for the first four Weeks after the Publication of this Act two Days in each Week, and for the next four Weeks one Day in each Week, and after that one Day each alternate or every other Week, till the Scheme be finished, and no oftner, unless on a Representation made to the Governour and Council, they shall direct the Commissioners to meet more frequently.

C H A P. III.

13 G. 2. ca. 3

An Act in Addition to, and for Explanation of an Act, Intituled, *An Act for Limitation of Actions, and for avoiding Suits at Law where the Matter is of long standing.*

Preamble.

WHEREAS in and by an Act made in the 13th Year of his present Majesty's Reign, intituled, An Act for Limitation of Actions, and for avoiding Suits in Law where the Matter is of long standing; *It is among other Things enacted, " That all Actions for Arrearages of Rent, or grounded on* " any Lending or Contract without Specialty, should be brought within four " Years next after the Cause of such Action, in Cases where the Cause of Action should arise after the Publication of the said Act, and in those Cases where " the Cause of Action had arisen before within four Years after the Publication " thereof, and not afterwards; " And whereas the latter Part of the said Clause was at the Time of making the said Act, generally understood to be meant and intended only of such Actions grounded on Lending, or Contract without Specialty as are express'd in the Act of Parliament, which was pass'd in the 21st Year of the Reign of King James the first, intituled, An Act for Limitation of Actions and avoiding Suits at Law; (from which Act the before-recited Law of this Province is (with Respect to the Actions therein mentioned) in a great Measure copied;) but yet the same construed in it's utmost Latitude, may be understood to include Actions of the Case upon Bill or Note of Hand, and has lately been so adjudged by some of the Courts of Judicature within this Province; (and by the like Construction may be deem'd to extend to all Actions of Account, and upon the Case whatsoever, not excepting such Accounts as concern the Trade of Merchandize between Merchant and Merchant, their Factors or Servants;) by which Construction in the Courts of Judicature, very many Creditors have been greatly surprized and injured, who upon the aforesaid general understanding of the said Clause of the aforesaid Provincial Act and thro' Lenity to their Debtors, have foreborn to bring Actions for the recovery of Debts due to them by promissary Note or otherwise howsoever upon simple Contract, within the Time limited in the aforesaid Law of this Province for bringing Actions grounded upon Lending or Contract without Specialty; and will thereby (upon the aforesaid Construction of the latter Part of said recited Clause) be barred from bringing Actions for the recovery of the same, and great Mischief and Inconvenience may arise in the Trade of Merchandize and Dealings between Merchant and Merchant, and other Traders within this Province :

Now for remedying and preventing the same,

Further Time
allowed for
bringing Actions
of Account
and on the
Case.

Be it declared and enacted by the Governour, Council and House of Representatives, That all Actions of Account or upon the Case grounded on any Lending or Contract or otherwise howsoever, in which the Cause of Action has arisen before the Publication of this Act, and which have not yet been commenced or prosecuted to Effect, may be brought and prosecuted at any Time within four Years after the Publication hereof; and in Cases where such Actions have been commenced, and Judgment hath been given upon Plea in Bar or on Trial for the Defendant, the Plaintiff or Plaintiffs in such Action, their Executors or Administrators, may bring and prosecute a Writ of Review of the said Action in such Court where the same was Tried, within three Years after the making up such Judgments, for the reversing the same, and recovering of their Debt, any Thing in the aforesaid Act contain'd to the contrary notwithstanding, and shall have the

Drawing in the Bills &c.

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the like Advantage for recovering the fame, as if the said A&t had never been made: And that all A&ions of Account and upon the Cafe other than such Accounts as concern the Trade of Merchandize between Merchant and Merchant, their Factors or Servants (the Cause whereof shall arife after the Publication of this A&t) shall be brought within the Term of four Years next after the Cause of such A&ions, and not afterwards; And that all A&ions of Account which concern the Trade of Merchandize between Merchant and Merchant, their Factors or Servants as aforesaid, may be brought and profecuted at any Time after the Cause of such A&ion, at the Pleasure of such Persons as may be concerned, any Thing in the aforesaid A&t to the contrary in any wise notwithstanding.

Time limited for bringing A&ions of Account and on the Cafe.

Provided always, and be it further enacted, That this A&t shall not be understood to bar any Infant, F&me-Covert, Person imprifoned, beyond the Seas, or non compos mentis, from bringing either of the A&ions beforementioned within the Term before fet and limited for bringing such A&ions, reckoning from the Time that such Impediment shall be removed.

Proviso.

And whereas it may happen that some Debtors may be out of this Province during the whole or some considerable Part of the Term of Time by this A&t allowed and limited for bringing such A&ions as aforesaid, and the Creditors in such Cafe not have like Advantage with other Creditors for recovering their Debts:

Preamble.

It is therefore hereby further provided and enacted, That if any Debtor shall continue out of this Province more than twelve Months within the aforesaid Term, in such Cafe the Creditor shall be allowed such further Time for bringing his A&ion and recovering his Debt as shall appear (to the Satisfaction of the Court in which such A&ion shall be brought) that the Debtor had continued out of the Province within the four Years beforementioned.

Proviso where Debtor continue out of the Province.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May* 1749. And continued by sundry Prorogations to the twenty-third Day of *November* following, and then met.

C H A P. I.

An A&t in Addition to and rendring more effectual an A&t Intituled *An A&t for drawing in the Bills of Credit of the several Denominations, which have at any Time been issued by this Government, and are still outstanding, and for ascertaining the Rate of coined Silver in this Province for the future*; made in the twenty-second Year of his present Majesty's Reign.

15 G. 2. ca. 4:

WHEREAS it is declared and provided in said A&t in the Words following, " And whereas the Sum of One Hundred and eighty three Thousand six Hundred and forty nine Pounds two Shillings and seven Pence half Penny Sterling, granted by Parliament as aforesaid; and the further Sum of Seventy five Thousand Pounds now granted to be assessed in Bills of Credit in the Year One Thousand seven Hundred and forty nine on the Polls and Estates of the Inhabitants of this Province, are by this A&t become the sole Fund and Security for the whole Sum in Bills of Credit outstanding, and in Case the said Sterling Sum granted as aforesaid be not imported into this Province before the said thirty-first Day of March

Preamble.

“ One Thousand ſeven Hundred and fifty, *the exchanging the Bills of Credit, as is above intended, will be rendred impracticable, and the former Funds and Securities being made void, there will remain a Fund for ſeventy five Thousand Pounds only, and the Remainder of ſaid Bills of Credit will become of no Value to the Poſſeſſors* : Be it therefore provided, And it is accordingly hereby enacted, that if the Sum granted by Parliament as aforeſaid, ſhall not be received within this Government on or before the thirty-fiſt Day of March One Thousand ſeven Hundred and fifty, then and in ſuch Caſe the ſeveral Acts of this Province for drawing in the ſaid Bills, and all and every Part of ſaid Acts, ſhall be and continue in full Force; any Thing in this Act to the contrary notwithstanding; and all and every Part of this Act ſhall be void, and have no further Effect.”

And whereas certain Deductions and Stoppages have been made from the aforeſaid Sum of One Hundred and eighty-three Thousand ſix Hundred and forty nine Pounds two Shillings and ſeven Pence half Penny Sterling; by Means whereof the whole and every Part of ſaid Sum has not yet been and cannot be received within this Government before the ſaid thirty-fiſt of March One Thousand ſeven Hundred and fifty, which has occaſioned Doubts and Uncertainty in the Minds of ſome whether the ſaid Act is not or may not thereby become void and of no Effect :

Act for drawing in the Bills of Credit &c. confirmed.

Be it therefore enacted by the Lieutenant Governour, Council and Houſe of Representatives, That the ſaid Act be and hereby is declared to be in as full Force, and ſhall have the ſame Effect to all Intents and Purpoſes as if the exact Sum of One Hundred eighty-three Thousand ſix Hundred and forty nine Pounds two Shillings and ſeven Pence half Penny Sterling, had been received within this Government without any Deductions or Stoppages made as aforeſaid; any Conſtruction that has been or may be put on the aforeſaid Paragraph to the contrary notwithstanding.

CHAP. II.

An Act to prevent Vexatious Law Suits.

Preamble.

WHEREAS it is the Practice of divers Perſons in this Government to vex their Neighbours, and put them to exceſſive Coſts, by ſuing them to ſome diſtant Court, in ſome County of the Province where neither Plaintiff nor Defendant is an Inhabitant; and ſuch Suits are frequently ſuſtained, notwithstanding the Law of this Province enables the ſeveral Inferiour Courts of Common Pleas, and the Superiour Court of Judicature to try Matters only that happen and ariſe within the County where the Court is held; by Reaſon whereof many Inconveniencies have ariſen :

For Prevention whereof :

No perſonal Action to be tried at the Inferiour Court, &c. in any County where neither Party is an Inhabitant.

Be it enacted by the Lieutenant Governour, Council and Houſe of Representatives, That from and after the Publication of this Act, no perſonal Action or Suit ſhall be brought by any Plaintiff or Plaintiffs (that are Inhabitants of this Government) to any Interiour Court of Common Pleas in any of the Counties within this Province, where neither the Plaintiff nor Plaintiffs by whom ſuch Suit is brought, nor the Defendant nor Defendants againſt whom ſuch Suit is brought ſhall be an Inhabitant within ſuch County where ſuch Suit is brought as aforeſaid, but all ſuch Actions or Suits ſhall be barred, and the Defendant or Defendants ſo ſued ſhall recover double Coſts of the Suit; ſaving where ſuch Defendant or Defendants againſt whom ſuch Suit is brought are not Inhabitants of this Province, in ſuch Caſe ſuch Action or Suit may be brought in any of the Counties within this Province.

Saving.

Provido.

Provided nevertheless, in Caſes of Treſpaſs vi et armis, and Debts due by Bond that by the Face of ſaid Bond are made local, thoſe Actions may be tried where the Treſpaſs ſhall have been committed or where ſaid Bonds have been given.

Adjournment of Courts. Clerks impowred.

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C H A P. III.

An Act in Addition to the Act to enable two Justices to adjourn a Court upon special Occasions.

WHEREAS in and by an Act made in the seventh Year of the Reign of King William the third, Intituled, An Act to enable two Justices to adjourn a Court upon special Occasions; any two of his Majesty's Justices of the Superiour Court of Judicature &c. and Inferiour Court of Common Pleas respectively, whenever such Courts by any Providential, necessary and unavoidable Lett or Hindrance of their Attendance cannot be held and kept on the Day by Law appointed for holding the same, are impowred by Writ under their Hands and Seals directed to the Sheriff of the County to adjourn such Court unto a further Day; but no Provision is made in and by said Act for any further Adjournment; which may be found necessary for the same Reasons:

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That when and so often as it shall happen that either of the said Courts cannot for any of the Reasons mentioned in the said Act, be held and kept on the Day to which, by Virtue of the aforesaid Act, the same may have been adjourned, or on any Day to which the Justices of the respective Courts at their Session may have adjourned the same, or on any Day to which the same may be adjourned by the General Court; it shall and may be lawful for any two of the Justices of such Court, in like Manner as in the said Act is mentioned, to adjourn the same to some further Day: And the Sheriff upon Receipt of such Justices Writ for that Purpose, shall conform himself to the Directions of the former Law.

Two Justices impow'd to adjourn a Court after a first Adjournment in Case.

7 W. ca. 1.

And be it further enacted, That whenever by Reason of any extraordinary Lett or Hindrance such two Justices cannot, without extream Difficulty, transmit any Writ for the Adjournment of such Court to the Sheriff, they may cause a Notification of such Adjournment or Adjournments to be posted up on the House where the Court was to have been held, and at such other publick Places as they may judge most suitable to give speedy Notice thereof to the County; and such Adjournment shall be adjudged good to all Intents and Purposes.

Manner of notifying such Adjournments.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1749, And continued by sundry Prorogations and an Adjournment to the twenty-second Day of *March* following, and then met.

C H A P. IV.

An Act in Addition to an Act made and passed in the twenty second Year of his Majesty's Reign, Intituled *An Act for drawing in the Bills of Credit of the several Denominations which have at any Time been issued by this Government and are still outstanding, and for ascertaining the Rate of coined Silver in this Province for the future.*

15 G. 2. ca. 4.

WHEREAS in and by an Act made and passed in the twenty-second Year of his present Majesty's Reign, Intituled An Act for drawing in the Bills of Credit of the several Denominations which have at any Time been issued by this Government, and are still outstanding, and for ascertaining the Rate of Coined Silver in this Province for the future; it is among other

Preamble:

other

other Things enacted and declared in the Words following, viz. " That no Execution shall be issued during the Term aforesaid from the Office of any Clerk of any of the Inferiour Courts of Common Pleas or of the Superiour Courts of Judicature, for any Sum whatsoever, unless the Plaintiff or Plaintiffs (suing in his or their own Right) shall first take the Oath aforesaid, and Certificate thereof shall be made on such Execution." And whereas such Clerk ex officio is not impowered to administer such Oath, and by Means thereof great Delay may be occasioned to many Plaintiffs, and Loss and Damage thereby arise :

Clerks of the Courts impowered to administer Oaths upon taking out Executions.

Be it therefore enacted, That the Clerks of the Superiour Court of Judicature and the several Clerks of the Inferiour Courts of Common Pleas within this Province, be and hereby are impowered to administer such Oath (when it hath not already been done before a Justice of Peace, and certified to the Clerk) to any Plaintiff or Plaintiffs whatsoever (suing in his or their Right and dwelling within this Province) and Certificate may and shall be made thereof accordingly ; and for administering the Oath as aforesaid such Clerk shall be allowed three Pence, and no more.

Fee for administering the Oath and for certifying it.

And be it further enacted, That for each Certificate on an Execution, the Clerk of the Court signing the same shall be allowed three Pence lawful Money, and no more ; and the Cost and Charge of such Oath and Certificate shall be added to the Sum in the Execution required to be levied accordingly.

C H A P. V.

An Act for ascertaining the Rates at which coined Silver and Gold and English Half-Pence and Farthings may pass within this Government.

15 G. 2. ca. 4.

Preamble.

WHEREAS in and by an Act made and passed in the twenty-second Year of his present Majesty's Reign, Intituled, An Act for drawing in the Bills of Credit of the several Denominations which have at any Time been issued by this Government and are still outstanding, and for ascertaining the Rate of coin'd Silver in this Province for the future ; *it is enacted in the Words following, viz. " That all Bargains, and Contracts, Debts and Dues whatsoever which shall be agreed, contracted or made after the thirty first Day of March 1750, shall be understood, and are hereby declared to be in Silver at six Shillings and eight Pence per Ounce, and all Spanish mill'd Pieces of Eight of full Weight shall be accounted, taken and paid at the Rate of six Shillings per Piece for the discharge of any Contracts or Bargains to be made after the said thirty first Day of March 1750, the Halves, Quarters and other less Pieces of the same Coin to be accounted, received, taken or paid in the same Proportion." And whereas there is great Reason to apprehend that many and great Inconveniencies may arise in Case any coin'd Silver or Gold, or English Half Pence and Farthings should pass at any higher Rate than in a just Proportion to Spanish Pieces of Eight or coin'd Silver at the Rates aforesaid :*

Rates of Coins stated.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That it shall not be lawful for any Person within this Government from and after the thirty-first Day of March One Thousand seven Hundred and fifty, to receive take or pay any of the following Coin at any greater or higher Rate than is allowed by this Act, viz. A Guinea at twenty-eight Shillings : An English Crown at six Shillings and eight Pence : An half Crown at three Shillings and four Pence : An English Shilling at one Shilling and four Pence : An English six Pence at eight Pence : A double Johannes, or Gold Coin of Portugal of the Value of three Pounds twelve Shillings Sterling, at four Pounds sixteen Shillings : A single Johannes of the Value of thirty-six Shillings Sterling, at forty-eight Shillings : A Moidore at thirty-six Shillings : A Pistole of full Weight at twenty two Shillings : Three English Farthings for one Penny ; and English Half Pence in greater or less Numbers in Proportion.

And

Intestate Estates.

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And be it further enacted, That if any Person within this Government shall after the thirty-first Day of *March* One Thousand seven Hundred and fifty, for the discharge of any Contract or Bargain, account, receive, take or pay any of the several Species of Coins before mentioned at any greater or higher Rate than at which the same is hereby regulated, settled and allowed to be accounted, received, taken or paid, every Person so accounting, receiving, taking or paying the same contrary to the Directions herein contained, shall forfeit the Sum of *fifty Pounds* for every such Offence, one Moiety thereof to his Majesty for the Use of this Government, the other Moiety to such Person or Persons as shall sue for the same; to be recovered with full Costs of Suit by Action of Debt, Bill, Plaint or Information in any of his Majesty's Courts within this Province.

Penalty for giving more for any the said Coins than according to Establishment.

Provided always, and it is hereby declared, That nothing in this Act shall be understood to restrain any Person or Persons from accounting, receiving taking or paying any of the abovementioned Species or Coins in discharge of any Debts, Contracts or Bargains made before the thirty-first Day of *March* One Thousand seven Hundred and fifty, at the following Rates, *viz.* For any Debt contracted before the said thirty-first Day of *March*, and understood to be payable in Bills of the old Tenor in such Proportion higher or greater than the Rates set at in this Act, as *forty five Shillings* is to *six Shillings*; and for any Debt contracted before the said thirty-first Day of *March*, and understood to be payable in Bills of the middle Tenor or Bills of the new Tenor, in such Proportion higher or greater than the Rates set at in this Act as *eleven Shillings and three Pence* is to *six Shillings*: Any Thing in this Act to the contrary notwithstanding.

Proviso relating to Bargains &c. made before *March* 31st 1750.

C H A P. VI.

An Act in further Addition to the several Acts of this Province made for the Distribution and Settlements of the Estates of Intestates.

4 W. & M. ca. 2.

WHEREAS by the Laws of this Province made for the Distribution and Settlement of the Estates of Intestates, it is provided that such Real Estates as cannot (without Prejudice to or spoiling them) be divided among all the Children of any Person dying Intestate and leaving Children, may be settled on one or so many of them as the Estate will conveniently accommodate; but no Provision by Law has as yet been made for the like Settlement of Estates (uncapable of a Division among all the Heirs) where the Intestate dies without Issue:

Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That where the Real Estate of any Person dying Intestate and not leaving Issue, cannot be divided among all the Heirs, without great Prejudice to or spoiling the whole, the Judge of the Probate of Wills in the County in which such Intestate Person last dwelt, shall have Power, and he is hereby authorized to order and assign the same to one or so many of the next of Kin to such Intestate in equal Degree, or their legal Representatives, as such Estate will conveniently accommodate without Prejudice to or spoiling the whole (Preference being given to the Male Heirs among such as are of Kin in equal Degree) in Manner as the same might by Law have been settled on the Children of the Intestate in Case he or she had left Issue.

Settlement of Intestate Estates where there is no Issue.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the thirtieth Day of *May*, 1750. And continued by Prorogations to Wednesday the twenty-sixth of *September* following.

C H A P. I.

An Act in Explanation of an Act made in the Reign of King *William* the Third, Intituled *An Act for Review in Civil Causes*

13 W. ca. 16.
24 G. 2. ca. 11.

Preamble.

WHEREAS some Doubt has arisen and may arise, whether the Act made in the thirteenth Year of the Reign of King *William* the Third, Intituled, An Act for Review in Civil Causes, extends to Judgments given, on Information filed by Impost Officers or their Deputies for the Declaration of the Forfeiture of Goods by them seized :

Explanation
of an Act on
Reviews.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the said Act doth not, nor ever did, neither ought to be construed to extend to Judgments given on such Informations.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1750. And continued by Prorogations to Thursday the tenth Day of *January* following.

C H A P. II.

An Act to regulate the Importation of *Germans* and other Passengers coming to settle in this Province.

Preamble.

WH E R E A S *Germans* and other Persons may be imported in so great Numbers in one Vessel, that through want of necessary Room and Accommodations, they may often contract mortal and contagious Distempers, and thereby occasion not only the Death of great Numbers of them in their Passage, but also by such Means on their Arrival in this Province, those who may survive, may be so infected as to spread the Contagion, and be the Cause of the Death of many others :

To the End therefore that such an evil Practice may be prevented, and Inconveniencies thence arising avoided as much as may be ;

Sufficient
Room & Pro-
visions to be
allowed to
Passengers
coming in any
Vessel to settle
in this Pro-
vince.

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That from and after the Publication of this Act, no Master or Commander of any Ship, or other Vessel whatsoever, bound to the Port of *Boston*, or elsewhere within this Province, shall import into said Port of *Boston*, or into any other Port within this Province, any greater Number of Passengers in any one Ship or other Vessel than such only as shall be well provided with good and wholesome Meat, Drink and other Necessaries for Passengers and others during the whole Voyage ; and shall have Room therein to contain for single Freight or Passengers of the Age of fourteen Years or upwards, at least six Feet in Length, and one Foot and six Inches in Breadth, and if under the Age afore-
said

Importation of Germans &c. Special Court. 343

said, to contain the same Length and Breadth for every two such Passengers; and if any Master or Commander of any Ship or other Vessel against the Tenor of this Act, shall import into this Province any one or greater Number of Passengers not accommodated or provided during his Voyage with good and wholesome Meat, Drink, Room and other Necessaries as aforesaid, such Master or Commander shall forfeit and pay for every Passenger so imported into this Province, the Sum of *five Pounds*, to be recovered by Action of Debt, with full Costs of Suit, in any Court of Record within this Province: The one Half of said Forfeiture to any one who will sue for the same to Effect, and the other Half to the Province Treasurer, to be applied towards Payment of the Charges and Expences of this Province: Provided such Action shall be commenced within the Space of forty Days next after any such Offence shall be committed; or such Delinquent may be indicted for the same in the next Court of General Sessions of the Peace for the County where the Offence shall be committed; and on due Conviction be fined at the Discretion of the Court not exceeding *five Pounds* for each Passenger, exceeding the Number by this Act allowed to be imported as aforesaid.

Penalty to any delinquent Master.

And to the End this Act and the Provisions herein made may be more particularly observed;

Be it further enacted, That the Commissioner of Impost for the Time being, or his lawful Deputies, in going on board any Ship or other Vessel importing Passengers either by his or their View, or otherwise, shall and is hereby required to inform himself of the Condition and Circumstances of the Passengers on board, and whether they have been provided for and accommodated with the Provisions, Room and other Necessaries herein directed: And where at any Time a Deficiency shall appear to him or any of them, he or they shall forthwith give Notice of the same to some one or more of the Justices of the Peace for the County where the Offence is committed, to the End the Person or Persons delinquent may be sent for or bound over to the next Court of General Sessions of the Peace, then and there to answer for such Offence.

The Impost Officer & his Deputies empowered to make Inquiry referring to the Observation of this Act.

And be it further enacted, That every Master or Commander of any Ship or other Vessel importing any Passenger or Passengers to be landed within this Province, who in their Passage hither, or soon after their Arrival, may happen to die, leaving Goods, Chattles, Money or other Effects on board such Ship or other Vessel, or in the Hands or Custody of any such Master or Commander, every such Master or Commander within the Space of twenty Days next after his Arrival, or after the decease of every such Passenger, shall exhibit to the Register of the Judge of Probate of Wills, and granting Administration for the County where such Goods and Effects shall be, a true and perfect Inventory, upon Oath, of all such Goods, Chattles, Money or other Effects, to the End that after Payment of all just Demands which shall be due to the said Master or Commander, or to his or their Owner or Owners, the Remainder of such Goods and Effects may be committed to the Custody of some proper Person or Persons, for the Benefit of the Wife and Children or other Kindred or Creditors of the Deceased, as the Case may require, and the Law in such Case shall direct.

Provision for saving the Money Goods &c of any Passengers that may die on the Passage.

And be it further enacted, That if any such Master or Commander of any such Ship or other Vessel shall neglect or refuse to exhibit such an Inventory of the Goods and Effects of any such Passenger or Passengers so dying as aforesaid, every such Master or Commander shall forfeit and pay the Sum of *Two Hundred Pounds*, to be recovered and applied as aforesaid.

Penalty for any Masters Neglect of exhibiting an Inventory of such Goods &c

C H A P. III.

An Act for holding a Superiour Court of Judicature Court of Assize and General Goal Delivery at other Times than those already appointed by Law.

WHEREAS the Time by Law appointed for holding the Superiour Court of Judicature Court of Assize and General Goal Delivery, is

X x

but

but once in six Months in any County, and but once a Year in many Counties, by Reason whereof Felons by making their Escape, or by the Death of Witnesses, may avoid Justice, or great Charges may arise by keeping such Offenders in Goal, as well as Damages accrue to Witnesses by being detained until the Time by Law appointed for holding the Court where such Offenders are triable: And as there is not by the Laws of this Province sufficient Provision made for remedying the Inconveniencies aforesaid:

Governor and Council im-
powered to
call a Special
Court of Assize
&c.

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That the Governour or Commander in Chief for the Time being by and with the Advice and Consent of the Council, may upon such Occasions, by Precept directed to the Justices of the Superiour Court of Judicature Court of Assize and General Goal Delivery, order and appoint them to hold a Superiour Court of Judicature Court of Assize and General Goal Delivery, for inquiring of, hearing and determining all such Felonies, on certain Days and Places by them to be appointed in the County where such Offence by Law is triable; and that the Justices aforesaid upon the Receipt of such Precept, shall cause Process to issue for summoning Grand Jurors and Petit Jurors out of the several Towns, as is usual for the stated Courts, to attend such Special Court at the Time and Place appointed by the Justices thereof for holding the same, and make out all other necessary Process, and do whatever else is or may be requisite to be done for the holding such Court, inquiring of such Felonies, hearing and determining the same, giving Judgment and awarding Execution thereon, as fully as the Superiour Court of Judicature Court of Assize and General Goal Delivery might or could do at a Time by Law appointed for holding such Court.

How the
Court may be
adjourned.

And be it further enacted, That if any such special Court cannot be held on the Day appointed therefor, any one of the Justices thereof may adjourn the same from Time to Time until such Court can be held.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the thirtieth Day of *May*, 1750, And continued by Prorogations and Adjournment to Wednesday the twenty-seventh Day of *March* following.

C H A P. IV.

An Act in Addition to the several Laws already in Being for the more speedy finishing the *Land Bank* or *Manufactory Scheme*.

17 G. 2. ca 3.

Preamble:

WHEREAS an Assessment was made by the Commissioners appointed by the Act of this Province, pass'd in the seventeenth Year of his present Majesty's Reign, Intituled, "An Act for the more speedy finishing the Land-Bank or Manufactory Scheme," on certain delinquent Partners, so called, and said Assessment was published in the Boston Gazette or Weekly Journal of the 21st of August 1744; and another Assessment was made by said Commissioners on other delinquent Partners, so called, and published in the Boston Gazette or Weekly Journal of the 13th of November 1744, and a further Assessment was made by said Commissioners on the late Directors and Partners of said Company, and published in the Supplement to the Boston Evening-Post of the 27th of December 1745: All which Assessments have been received in Part only. And whereas by Reason of the burning of the Court-House in Boston and the Papers that were therein relating to the Land-Bank or Manufactory Scheme, it is now become impossible to ascertain the exact Sum which has been paid by said Directors and Partners in Consequence of said Assessments, otherwise than from the Books, Papers or other Evidence which may be produced by said Directors and Partners themselves:

Be

Land Bank.

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Be it therefore enacted by the Lieutenant Governor, Council and House of Representatives, That each and every one of ſaid late Directors and Partners, aſſeſſed by ſaid Commiſſioners whoſe Names are publiſhed in the aforeſaid *Gazettes* or *Journals* of the 21ſt of *Auguſt* 1744, and of the 13th of *Novem.* 1744, and the Supplement to the *Boston Evening Poſt* of the 27th of *December* 1745, and their Eſtates ſhall be held and are hereby declared to be liable to the Payment of the Sums affixed to their Names reſpectively, ſaving ſuch Part thereof only which ſaid Directors and Partners or their Representatives ſhall make appear by Receipts or other Evidence, which ſhall be ſatisfactory to the Commiſſioners, has already been paid in Diſcharge of ſaid Aſſeſſments; and each and every of the ſaid Directors and Partners in the ſeveral Aſſeſſments aforeſaid, and their Eſtates, ſhall likewiſe be held and are hereby declared to be liable to the Payment of Intereſt on the whole or ſuch Part of their reſpective Aſſeſſments as they ſhall not make appear to have been diſcharged, at and after the Rate of *ſix per Cent.* per Annum, to be computed from the Time ſuch Aſſeſſment or ſuch Part thereof reſpectively as ſhall remain unpaid became payable or due, until the Time of Payment; and each and every of the delinquent Partners whoſe Names were publiſhed in the *Gazettes* of 21ſt *Auguſt* and 13th *November* 1744, and their Eſtates as aforeſaid, are held and hereby declared to be liable to the Payment of the further Sum of *ten per Cent.* and each and every of the Directors and Partners whoſe Names were publiſhed in the Supplement to the *Boston Evening Poſt* of the 27th *December* 1745, and their Eſtates, are held and hereby declared to be liable to the Payment of *five per Cent.* on the Sums reſpectively due and unpaid, over and above the Intereſt aforeſaid, in Conſideration of the Charges which have been cauſed by their Nonpayment of their reſpective Parts of the Aſſeſſments aforeſaid.

Directors and Partners to be held to the Payment of the Sum affixed to their Names in the *Boston Gazette* &c.

Saving what is already paid.

Six per Cent. added as Intereſt.

Ten per Cent. added.

Five per Cent. added for Charges.

And whereas there appears to be a Balance due from ſeveral of ſaid Directors, agreeable to a Report of a Committee of the General Court ſigned John Wheelwright per Order, and dated April 17th 1751, and the Vote or Order of the General Court accepting ſaid Report, amounting in the whole to ſeven Hundred and forty-eight Pounds three Shillings and three Pence Land-Bank Money, ſo called: And whereas it is reaſonable that each and every of the Directors of ſaid Company ſhould pay the Sum of forty Pounds Land Bank Money, as their Proportion to what the Partners have already been aſſeſſed for the Charge and Loſs ſuſtained by ſaid Land Bank or Manufactory Company, over and above the Sum of twenty Pounds lawful Money which has heretofore been aſſeſſed on each of ſaid Directors:

Preamble.

Be it therefore enacted, That the ſeveral Directors ſtill ſurviving and mentioned in ſaid Report, and their Eſtates, and alſo the Eſtates of ſuch of ſaid Directors as are deceased, be and hereby are declared to be held and made liable to the Payment of the aforeſaid Balances as are reſpectively declared by ſaid Report to be due from them to ſaid Company; and alſo to the further Sum of forty Pounds Land Bank Money each as aforeſaid, ſuch Payments to be made in Land Bank Money or lawful Money equivalent.

Directors to pay the Balances in the Committee's Report.

And be it further enacted, That if either of the late Directors and Partners, or their Heirs, Executors or Adminiſtrators, ſhall not have paid the Sums which by this Act they the ſaid Directors and Partners or their Eſtates are held and made liable to the Payment of, on or before the firſt Day of *Auguſt* 1751, then and in ſuch Caſe the ſaid Commiſſioners be and hereby are empowered and required (any Judgments of Court heretofore obtained and unſatisfied notwithstanding) forthwith to iſſue their Warrants of Diſtreſs againſt the Perſons or Eſtates of each ſurviving Director and Partner, and the Eſtates of each Director and Partner deceased, from whom any Part of the Sum required by this Act to be paid as aforeſaid ſhall then remain due: Which Warrant ſhall be in the Form following:

Warrants to be iſſued againſt the Directors and Partners.

Form of the
Warrants of
Diſtreſs.

To the Sheriff of the County of A. his Under-Sheriff or Deputy. Greeting.

By Virtue of the Authority given to us in and by an Act made and paſſ'd in the twenty-fourth Year of his Maſteſty King GEORGE the Second, Intituled, An Act in Addition to the ſeveral Laws already in Being for the more ſpeedy finiſhing the Land Bank or Manuſactory Scheme; Theſe are in his Maſteſty's Name to require you to levy by Diſtreſs and Sale of the Eſtate of A. B. of C. in the County of E. the Sum of Lawful Money, and bring the ſame to us at our Office in Boſton forthwith, returning the Overplus (if any be) to the ſaid A. B. and if there cannot be found in your Precinct, Eſtate ſufficient to diſcharge the ſame, then you are to commit the ſaid A. B. if to be found in your Precinct, to the common Goal of the County of E. there to remain until he has paid the ſaid Sum of Lawful Money and Charges: For all which this ſhall be your ſufficient Warrant; ſave only that if you ſhall take the Real Eſtate of the ſaid A. B. that then the ſaid A. B. his Heirs, Executors, Adminiſtrators or Assigns, ſhall have Liberty for three Months thereafter to redeem the ſame; and if the ſame ſhall not be redeemed within three Months as aforeſaid, by paying ſaid Sum of and Charges, then you are required to ſell the ſame as aforeſaid, and return this Warrant and your Doings thereon, into the Office of the Register of Deeds for the County of E. there to be recorded.

Given under our Hands and Seals at Boſton the
in the Year of our Sovereign Lord
King of Great-Britain, &c.

Day of 175
by the Grace of GOD

J. J.
S. D.
J. C.

Officers im-
powered to ex-
ecute ſaid
Warrants.

And all Sheriffs, their Under-Sheriffs and Deputies, are impowered and required to execute the ſaid Warrant on the Perſons whoſe Names ſhall be inſerted therein or their Eſtates Real or Perſonal: And where the Sheriff his Under-Sheriff or Deputy is concerned, ſuch Warrant may be directed to the Coroner of the County of A. or his Deputy, and be executed by either of them: And as ſome of ſaid Perſons are or may be deceaſed; or out of the Province, before ſuch Warrant or Warrants of Diſtreſs ſhall be iſſued, the ſaid Sheriffs and Coroners are hereby impowered and directed to take ſuch Eſtate as they may find belonged to ſuch deceaſed Perſon, or was by Law liable to be taken, if ſuch deceaſed Perſon or Perſons were then living, and in the Province; The Eſtate taken, whether Real or Perſonal, to be ſold, and the Overplus, if any, to be returned, as by Law required in ordinary Caſes of Execution or Diſtreſs, ſave only that the Liberty of redeeming the Real Eſtate ſhall extend to three Months only after being taken; upon the Expiration of which Term of three Months, if the ſame be not redeemed, the Sheriff or other Officer who took the ſame, ſhall return the Warrant of Diſtreſs, with his Doings thereon, into the Office of Register of Deeds in the County where the Lands lie, there to be recorded.

Three Months
allowed to re-
deem real
Eſtates.

Preamble.

An whereas it may happen that a further Sum may be ſtill neceſſary to be raiſed in order to finiſh the Affairs of the ſaid Land Bank or Manuſactory Company:

Commiſſio-
ners impow-
ered to make
further Aſſeſs-
ments.

Be it further enacted, That if the whole Sum which ſhall be due and which ſhall be recovered on or before the firſt Day of December 1751, on the ſeveral Aſſeſſments aforeſaid, and from the ſeveral Directors for what is by this Act declared to be due from them, ſhall not be ſufficient to exchange the whole of the Bills of ſaid Company that are now outſtanding, and to pay the Charges that have ariſen or may ariſe therein, then and in ſuch Caſe the Commiſſioners aforeſaid be and hereby are impowered and required to make a further Aſſeſſment on Directors and Partners in Proportion to the Sum which ſhall appear to the Satisfaction of the Commiſſioners to have been originally received or taken out by each Perſon, ſaving only that each Director ſhall be aſſeſſed in Proportion as if he had received or taken out two Hundred and fifty Pounds, altho' the certain Sum

Land Bank.

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Sum by such Director received or taken out shall not appear : And said Commissioners shall cause such Assessment to be published in the *Boston Gazette* or *Weekly Journal*, and each of the Persons who may be so assessed and their Estates shall be held and are hereby declared to be liable and obliged to the Payment of the respective Sums on them assessed in like Manner as those Directors and Partners who have not paid the former Assessments, are by this Act declared to be liable and obliged to the Payment thereof : And if either of the Directors or Partners so assessed or their Executors or Administrators shall not within sixty Days after the Publication of such Assessment, pay to said Commissioners the Sum on such Director or Partner assessed, the said Commissioners are hereby required and impowered, unless such Assessment shall be set aside or disannulled by the General Court, forthwith to issue their Warrants of Distress against the Persons or Estates of each surviving Director and Partner, and the Estates of each Director and Partner deceased respectively ; which Warrants shall be in the Form before prescribed by this Act : And all Sheriffs, Under-Sheriffs and their Deputies, and where they are interested, all Coroners are impowered and required to execute such Warrants in like Manner, and observe the same Rules as prescribed for the executing Warrants for any of the former Assessments mentioned in this Act.

Assessments to be published.

Warrants to be issued on such Assessments.

And whereas in by the aforesaid Act Intituled, An Act for the more speedy finishing the Land Bank or Manufactory Scheme, it is enacted in the Words following ; " That from and after the Publication of this Act the Estate of each and every such Director and Partner shall be thereby bound and subjected to the Payment of such Sum or Sums of Money as shall be assessed upon him by the said Commissioners or any two of them, with the Approbation and Allowance of the Great and General Court of this Province (as is herein after mentioned) for the Redemption of their respective Proportions of the Bills of the said late Company, and their equitable Part and Share of all Losses and Charges arising by the said Scheme, in such Manner as the same would be bound and subjected by the actual Service of Process of Attachment upon it at the Suit of any Creditor according to the ordinary Course of the Law and the Usage within this Province."

Preamble.

Be it therefore enacted, That all every and Part of the Lands and Tenements of each and every Director and Partner which were bound and subjected by the said last recited Clause, in whose Possession soever the same now is or hereafter may be, be and hereby is declared to continue to be held, subjected and liable to the Payment or Discharge of the Sums declared by this Act respectively to be due from or required to be assessed upon such Director and Partner, as well those who shall be deceased as those who shall have survived, and shall be liable to be taken by Distress, as if then in the actual Possession of such Director or Partner.

Real Estates subjected to satisfy the same.

And be it further enacted, That as soon as the Commissioners shall have received a sufficient Sum in their Judgment to redeem the *Land Bank* Bills, so called, which may be outstanding, they shall give publick Notice thereof in all the Weekly News-Papers published in the Town of *Boston* three Weeks successively, of the Time or Times and Place or Places in said Town when and where they will attend to redeem said Bills, which publick Notice hereby is made and declared to be a legal Tender to all and every Possessor and Possessors of said Bills.

Notice to be given by Commissioners of their redeeming the Land Bank Notes.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-ninth Day of *May*, 1751.

C H A P. V.

An Act to enable and impower the Inhabitants of new Plantations within this Province enjoined and subjected by Law, or that may hereafter be enjoined and subjected to pay Province and County Taxes, to assess, levy and collect the same.

Preamble.

WHEREAS there are sundry new Plantations within this Province by Law enjoined to pay Province and County Taxes, that are not impowered to choose the proper Officers to assess levy and collect the said Taxes :

Freeholders of new Plantations to have a Meeting in *August* next to choose Officers.

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That the Freeholders of every such new Plantation be and are hereby impowered and required to assemble together on the first Monday of *August* next, at the usual Places for holding their publick Meetings, and being so assembled shall choose a Moderator and Clerk for said Meeting ; which Clerk shall be immediately sworn truly to enter and record all such Votes as shall be passed at said Meeting, by a Justice of the Peace if any be present ; otherwise by the Moderator of said Meeting : And shall then proceed to choose three Assessors to make a Valuation of Estates and Faculties of Persons in such Plantations, agreeable to Law, and to assess such Province and County Taxes as are or shall be set on the Inhabitants of such new Plantation, to be paid this or any former Year ; as also a Collector to levy and collect the same, which Assessors and Collectors shall be sworn to the faithful Discharge of the Duty of their respective Offices before a Justice of the Peace for the County within which such new Plantation lies, if present, otherwise by the Clerk for said Meeting.

Inhabitants of New Plantations to meet in *March* annually.

And be it further enacted, That the Inhabitants of the abovesaid Plantations, qualified as by Law is required of Voters in Town Affairs, are hereby impowered and enjoined sometime in the Month of *March* annually to assemble together (upon due Notice given by the Collector or Collectors then in Office, pursuant to Warrant under the Hands of the Assessors or the major Part of them who shall have been last chosen, and who are hereby impowered and required to issue such Warrant) at such Time and Place as shall be by said Assessors appointed ; and shall then and there choose a Clerk for said Meeting, who shall be sworn in Manner as is before prescribed for the Swearing the Clerk for the first Meeting, and three Assessors, and one or more Collectors to assess and levy such Province and County Taxes on said Inhabitants, as they shall from Time to Time be enjoined by Law to pay ; and said Assessors and Collectors, as well those that shall be chosen on the said first Monday of *August*, as those who shall by Virtue of this Act be hereafter annually chosen in said new Plantations, shall be liable to all such Penalties (in Case they or any of them shall refuse to be sworn and serve in said Offices, or in Case of any Default therein) as the Assessors of Province and County Taxes for Towns are by Law liable, or may be subjected to ; and said Assessors are hereby impowered and required to make out such Warrants (*mutatis mutandis*) as Assessors of County Taxes for Towns are by Law impowered to make out, and to direct the same to said Collector or Collectors ; and the said Collector or Collectors are hereby impowered to levy, collect and enforce the Payment of all the aforesaid Taxes in all such Ways,

Duty of Assessors and Collectors of Taxes.

and

Light-house.

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and by all such Means as Constables and Collectors of Province and County Taxes, are by Law impowered to do of the Inhabitants of the Towns within this Province.

And the Clerk at said annual Meeting shall immediately on the Election of said Assessors and Collectors, make and give out to the Collector or Collectors for the then last preceeding Year a List of the Names of those Persons who shall be chosen Assessors and Collectors at said Meeting for the ensuing Year, which Collector or Collectors shall forthwith thereupon summon each of said Assessors and Collectors for the then ensuing Year, to appear at a certain Time and Place, within the space of seven Days from the Time of their Election, before a Justice of the Peace, if any dwell in such new Plantation, or otherwise before the Clerk chosen at said Meeting, to take the Oath (*mutatis mutandis*) which Assessors and Collectors of publick Taxes for Towns are by Law enjoined to take, which Oath said Clerk in such Case is hereby impowered to administer.

Duty of the Clerks.

And to the Intent that the Inhabitants of said new Plantations may, have due Notice and Warning given them of the Meeting, which they are before in this Act impowered and required to hold on the first Monday of August next, and of the Ends and Purposes thereof :

Be it enacted, That each Clerk of the Court of General Sessions of the Peace for the several Counties within this Province wherein any of the aforesaid new Plantations lie, shall in some convenient Time before the said first Monday of August next, make and cause to be delivered a Warrant under his Hand directed to some principal Inhabitant in each of said new Plantations within their respective Counties, therein expressing the Time, Place and Purposes for holding said Meetings, and requiring such Inhabitants to notify all the Inhabitants of said new Plantations (qualified as in this Act is provided) of said Meeting, and the Time, Place and Purposes thereof, three Days at least before the Time set in this Act for holding the same ; which Warrant the Inhabitant to whom said Warrant shall be directed, is hereby enjoined and required to execute, and make Return of under his Hand into said Meeting, under the Penalty of *forty Shillings*, to be recovered by Complaint, Information or Action of Debt, before any of His Majesty's Justices of the Peace for the County wherein said Inhabitant (making Default in the Premises shall dwell ;) said *forty Shillings* to be for the Use and Benefit of the Person or Persons who shall inform or sue for the same.

Clerk of the Peace in the County to notify the Meeting in August next.

C H A P. VI.

An Act in Addition to an Act made and passed in the first Year of the Reign of his Majesty King George the first, Intituled *An Act for building and maintaining a Light-House upon the Great Brewster (called Beacon-Island) at the Entrance of the Harbour of Boston.*

WHEREAS the Light House at the Entrance of the Harbour of Boston hath been greatly damaged by Fire ; and it hath been ordered by this Court that it should be repaired ; and it being reasonable that the Charge of such Repairs should be born by those who receive the immediate Benefit thereof :

Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the Commissioner of Impost be and hereby is directed by himself and his several Deputies, to demand and receive of the Master of every Vessel (which within the Space of two Years from the Publication of this Act shall Clear out from any Port within this Province, being bound to any Port without this Province) over and above what is already by Law provided, the following Rates at each Time of Clearance ; viz. For every Vessel of less than one Hundred

New Duty for the Light-House.

1 G. ca. 3.

Hundred

Alteration of Courts.

Hundred Tons *two Shillings*; for every Vessel of above one Hundred Tons, and not exceeding two Hundred Tons, *three Shillings*; and for every Vessel of above two Hundred Tons, *four Shillings*; The Tonnage to be computed according to what such Vessels may Measure in Carpenter's Tonnage, and not according to the Register of such Vessel: And the said Commissioner of Impost shall once in every Quarter of the Year pay such Sums as he or his Deputies shall receive for the aforesaid Duties, to the Province Treasurer, to be applied to the Uses aforesaid.

C H A P. VII.

An Act for altering the Time appointed for holding the Court of General Sessions of the Peace and Inferiour Court of Common Pleas at *Concord* within and for the County of *Middlesex*.

Preamble.

WHEREAS the Time appointed by Law for holding the Court of General Sessions of the Peace and Inferiour Court of Common Pleas at *Concord*, within and for the County of *Middlesex*, is found to be inconvenient:

Time for holding the Courts at *Concord* altered.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the Time for holding the said Court of General Sessions of the Peace and Inferiour Court of Common Pleas at *Concord* for the County of *Middlesex*, shall henceforth be on the first Tuesday of *September* annually; and all Officers and other Persons concerned, are required to conform themselves accordingly.

Processes to remain good.

And be it further enacted, That all Writs, Suits, Plaints, Processes, Appeals, Reviews, Recognizances, Warrants, or other Matters or Things whatsoever which now are, or at any Time before the said first Tuesday of *September* shall be issued, taken or depending in the said County of *Middlesex*, which were to have been returned or proceeded on at the Time heretofore appointed by Law for holding the said Courts at *Concord*, shall be valid and stand good to all Intents and Purposes in the Law, and shall be returned and proceeded on at the Time appointed by this Act for holding the same.

C H A P. VIII.

An Act for altering the Time for holding the Court of General Sessions of the Peace and the Inferiour Court of Common Pleas for the County of *Nantucket*.

Preamble:

WHEREAS the Time by Law appointed for holding the Court of General Sessions of the Peace, and Inferiour Court of Common Pleas for the County of *Nantucket*, on the last Tuesday of *March* annually, is found on diverse Accounts inconvenient:

Time for holding *Nantucket* Courts altered.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the said Court of General Sessions of the Peace, and Inferiour Court of Common Pleas appointed to be holden for the County of *Nantucket* upon the last Tuesday of *March*, shall hereafter be holden and kept upon the first Tuesday of *March* annually.

At



At the Parliament begun and holden at *Westminster*, the Tenth Day of *November*, Anno Dom. 1747, in the Twenty-first Year of the Reign of our Sovereign Lord *GEORGE* the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland*, King, Defender of the Faith, &c.

And from thence continued by several Prorogations to the Seventeenth Day of *January* 1750, being the Fourth Session of this present Parliament.

CHAP. IX.

An Act for Regulating the Commencement of the Year ;
and for Correcting the Calendar now in Use.

WHEREAS the legal Supputation of the Year of our Lord in that Part of *Great Britain* called *England*, according to which the Year beginneth on the Twenty fifth Day of *March*, hath been found by Experience to be attended with divers Inconveniencies, not only as it differs from the Usage of neighbouring Nations, but also from the legal Method of Computation in that Part of *Great-Britain* called *Scotland*, and from the Common Usage throughout the whole Kingdom, and thereby frequent Mistakes are occasioned in the Dates of Deeds, and other Writings, and Disputes arise therefrom : And whereas the Calendar now in use throughout all his Majesty's *British* Dominions, commonly called, *The Julian Calendar*, hath been discovered to be erroneous, by Means whereof the Vernal or Spring Equinox, which at the Time of the General Council of *Nice*, in the Year of our Lord three Hundred and twenty-five, hapned on or about the Twenty-first Day of *March*, now happens on the Ninth or Tenth Day of the same Month ; and the said Error is still encreasing, and if not remedied, would, in Process of Time, occasion the several Equinoxes and Solstices to fall at very different Times in the Civil Year from what they formerly did, which might tend to mislead Persons ignorant of the said Alteration : And whereas a Method of correcting the Callendar in such Manner as that the Equinoxes and Solstices may for the future fall nearly on the same nominal Days, on which the same happened at the Time of the said General Council hath been received and established, and is now generally practised by almost all other Nations of *Europe* : And whereas it will be of general Convenience to Merchants, and other Persons corresponding with other Nations and Countries, and tend to prevent Mistakes and Disputes in or concerning the Dates of Letters and Accounts, if the like Correction be received and established in his Majesty's Dominions : May it therefore please your Majesty, that it may be enacted : *And*

Y y

be

Regulation of the Stile.

The old Supputation of the Year, not to be made use of after Dec. 1751

Year to commence, for the future on 1 Jan.

The Days to be numbered in the same Order, and the Moveable Feasts to be ascertained, as they now are, until 2 Sept. 1752 inclusive; and the Day followed to be accounted 14 Sept. omitting for that Time the intermediate 11 Nominal Days.

All Writings after 1 Jan. 1752, to be dated according to the New Stile.

Hilary and Michaelmas Terms, & all Courts, to be held on the same Nominal Days and Times they now are, after the said 2 Sept.

Courts held with Fairs or Marts excepted.

be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the Authority of the same, That in and throughout all his Majesty's Dominions and Countries in *Europe, Asia, Africa and America*, belonging or subject to the Crown of *Great-Britain*, the said Supputation, according to which the Year of our Lord beginneth on the Twenty-fifth Day of *March*, shall not be made Use of from and after the last Day of *December*, One Thousand seven Hundred and Fifty-one; and that the first Day of *January* next following the said last Day of *December*, shall be reckoned, taken, deemed, and accounted, to be the first Day of the Year of our Lord One Thousand seven Hundred and fifty-two; and the first Day of *January* which shall happen next after the said first Day of *January* One Thousand seven Hundred and fifty-two, shall be reckoned, taken, deemed, and accounted, to be the first Day of the Year of our Lord One Thousand seven Hundred and fifty three, and so on from Time to Time, the first Day of *January*, in every Year which shall happen in Time to come, shall be reckoned, taken, deemed and accounted, to be the first Day of the Year; and that each new Year shall accordingly commence, and begin to be reckoned, from the first Day of every such Month of *January*, next preceeding the Twenty-fifth Day of *March* on which such Year would, according to the present Supputation have begun or commenced: And that from and after the said first Day of *January*, One Thousand seven Hundred and fifty two, the several Days of each Month shall go on, and be reckoned and numbered, in the same Order; and the Feast of *Easter*, and other moveable Feasts thereon depending, shall be ascertained according to the same Method, as they now are, until the second Day of *September*, in the said Year One Thousand seven Hundred and fifty two inclusive; and that the natural Day next immediately following the said second Day of *September*, shall be called, reckoned, and accounted, to be the fourteenth Day of *September*, omitting for that Time only the Eleven intermediate nominal Days of the common Calendar; and that the several natural Days, which shall follow and succeed next after the said fourteenth Day of *September*, shall be respectively called, reckoned and numbred forwards in numerical Order from the said fourteenth Day of *September*, according to the Order and Succession of Days now used in the present Calendar: And that all Acts, Deeds, Writings, Notes, and other Instruments of what Nature or Kind soever, whether Ecclesiastical or Civil, publick or private, which shall be made, executed, or signed, upon or after the said first Day of *January*, One Thousand seven Hundred and fifty-two, shall bear Date according to the said new Method of Supputation; and that the two fixed Terms of Saint *Hilary* and Saint *Michael*, in that Part of *Great-Britain* called *England*, and the Courts of great Sessions, in the Counties *Palatine* and in *Wales*, and also the Courts of General Quarter Sessions, and General Sessions of the Peace, and all other Courts of what Nature or Kind soever, whether Civil, Criminal or Ecclesiastical, and all Meetings and Assemblies, of any Bodies Politick, or Corporate, either for the Election of any Officers or Members thereof, or for any such Officers entering upon the Execution of their respective Offices, or for any other Purpose whatsoever, which by any Law, Statute, Charter, Custom or Usage, within this Kingdom, or within any other the Dominions or Countries subject or belonging to the Crown of *Great-Britain*, are to be holden and kept on any fixed or certain Day of any Month, or on any Day depending upon the Beginning, or any certain Day, of any Month (except such Courts as are usually holden or kept with any Fairs or Marts) shall, from Time to Time from and after the said second Day of *September*, be holden and kept upon or according to the same respective nominal Days and Times, whercon or according to which the same are now to be holden, but which shall be computed according to the said new Method of numbering and reckoning the Days of the Calendar, as aforesaid; that is to say, Eleven Days sooner than the respective Days whercon the same are now holden and kept: Any Law, Statute, Charter, Custom or Usage to the contrary thereof in any wise notwithstanding.

And

Regulation of the ſtile.

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And for the continuing and preſerving the Calendar or Method of Reckoning and computing the Days of the Year in the ſame regular Courſe, as near as may be, in all Times coming; *Be it further enacted by the Authority aforeſaid,* That the ſeveral Years of our Lord, One Thouſand eight Hundred, One Thouſand nine Hundred, Two Thouſand one Hundred, Two Thouſand two Hundred, Two Thouſand three Hundred, or any other Hundredth Years of our Lord, which ſhall happen in Time to come, except only every Fourth hundredth Year of our Lord, whereof the Year of our Lord Two thouſand ſhall be the Firſt, ſhall not be eſteemed or taken to be Biſſextile or Leap Years, but ſhall be taken to be Common Years, conſiſting of Three hundred and ſixty five Days, and no more; and that the Years of our Lord, Two thouſand, Two thouſand four Hundred, Two thouſand eight Hundred, and every other Fourth hundred Year of our Lord, from the ſaid Year of our Lord Two thouſand incluſive, and alſo all other Years of our Lord, which by the preſent Supputation are eſteemed to be Biſſextile or Leap Years, ſhall for the future, and in all Times to come, be eſteemed and taken to be Biſſextile or Leap Years, conſiſting of Three hundred and ſixty ſix Days, in the ſame Sort and Manner as is now uſed with reſpect to every Fourth Year of our Lord.

And whereas according to the Rule prefixed to the Book of Common Prayer of the Church of *England*, *Eaſter-day* is always the Firſt Sunday after the Firſt Full Moon which happens next after the One and twentieth Day of *March*, and if the Full Moon happens upon a Sunday, *Eaſter-day* is the Sunday after; which Rule was made in Conformity to the Decree of the ſaid General Council of *Nice*, for the Celebration of the ſaid Feaſt of *Eaſter*: And whereas the Method of computing the Full Moons now uſed in the Church of *England*, and according to which the Table to find *Eaſter* for ever, prefixed to the ſaid Book of Common Prayer, is formed, is by Proceſs of Time become conſiderably erroneous: And whereas a Calendar, and alſo certain Tables and Rules for the fixing the true Time of the Celebration of the ſaid Feaſt of *Eaſter*, and the finding the Times of the Full Moons on which the ſame dependeth, ſo as the ſame ſhall agree as nearly as may be with the Decree of the ſaid General Council and alſo with the Practice of Foreign Countries, have been prepared, and are hereunto annexed; *Be it therefore further enacted by the Authority aforeſaid,* That the ſaid Feaſt of *Eaſter*, or any of the Moveable Feaſts thereon depending, ſhall from and after the ſaid Second Day of *September*, be no longer kept or obſerved in that Part of *Great-Britain* called *England*, or in any other the Dominions or Countries ſubject or belonging to the Crown of *Great Britain*, according to the ſaid Method of Supputation now uſed, or the ſaid Table prefixed to the ſaid Book of Common Prayer; and that the ſaid Table, and alſo the Column of Golden Numbers, as they are now prefixed to the reſpective Days of the Month in the ſaid Calendar, ſhall be left out in all future Editions of the ſaid Book of Common Prayer; and that the ſaid New Calendar, Tables, and Rules, hereunto annexed, ſhall be prefixed to all ſuch future Editions of the ſaid Book, in the Room and Stead thereof; and that from and after the ſaid Second Day of *September*, all and every the fixed Feaſt-days, Holy-days, and Faſt-days, which are now kept and obſerved by the Church of *England*, and alſo the ſeveral ſolemn Days of Thankſgiving, and of Faſting and Humiliation, which by virtue of any Act of Parliament now in Being, are from Time to Time, to be kept and obſerved, ſhall be kept and obſerved on the reſpective Days marked for the Celebration of the ſame in the ſaid New Calendar; that is to ſay, On the ſame reſpective Nominal Days on which the ſame are now kept and obſerved; but which according to the Alteration by this Act intended to be made, as aforeſaid, will happen Eleven Days ſooner than the ſame now do; and that the ſaid Feaſt of *Eaſter*, and all other Moveable Feaſts thereon depending, ſhall, from Time to Time, be obſerved and celebrated according to the ſaid New-Calendar, Tables, and Rules, hereunto annexed, in that Part of *Great-Britain* called *England*, and in all the Dominions and Countries aforeſaid, wherein the Liturgy of the Church of *England* now is, or hereafter ſhall be uſed; and that the Two Moveable

Hundredth Years, except every Fourth Hundred, to be deemed Common Years conſiſting of 365 Days.

Years which are to be accounted Biſſextile or Leap Years, conſiſting of 366 Days.

Eaſter and the other Moveable Feaſts, not to be obſerved, after the ſaid 2^d Sept. according to the Table now prefixed to the Book of Common Prayer.

and the ſaid Table, and Column of the Golden Numbers, to be left out in all future Editions of that Book, and the New Calendar, Tables, and Rules, to be prefixed, in the Room thereof.

The Feaſts and Faſts, &c. of the Church to be obſerved after the ſaid 2^d September, according to the New-Calendar.

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Courts of Seſſion and Exchequer in Scotland, and Markets, Fairs and Marts, to be held upon the ſame Natural Days, they ſhould have been holden on, if this Act had not been made.

Terms of *Eaſter* and *Trinity*, and all Courts of what Nature or Kind ſoever, and all Meetings and Aſſemblies of any Bodies Politick or Corporate, and all Markets, Fairs, and Marts, and Courts thereunto belonging, which by any Law, Statute, Charter, Cuſtom, or Uſage, are appointed, uſed, or accuſtomed to be holden and kept at any Moveable Time or Times depending upon the Time of *Eaſter*, or any other ſuch Moveable Feaſt, as aforeſaid, ſhall, from Time to Time, from and after the ſaid Second Day of *September*, be holden and kept on ſuch Days and Times whereon the ſame ſhall reſpectively happen or fall, according to the happening or falling of the ſaid Feaſt of *Eaſter*, or ſuch other Moveable Feaſts as aforeſaid, to be computed according to the ſaid New Calendar, Tables, and Rules. *And be it further Enacted by the Authority aforeſaid*, That the ſeveral Meetings of the Court of Seſſion, and Terms fixed for the Court of *Exchequer* in *Scotland*, the *April* Meeting of the Governour, Bailiffs and Commonalty of the Company of Conſervators of the great Level of the Fens, and the holding and keeping of all Markets, Fairs, and Marts, whether for the Sale of Goods or Cattle, or for the hiring of Servants, or for any other Purpoſe, which are either fixed to certain Nominal Days of the Month, or depending upon the Beginning, or any certain Day, of any Month and all Courts incident or belonging to, or uſually holden or kept with any ſuch Fairs or Marts, fixed to ſuch certain Times as aforeſaid, ſhall not, from and after the ſaid Second Day of *September*, be continued upon, or according to the Nominal Days of the Month, or the Time of the Beginning of any Month, to be computed according to the ſaid New Calendar, but that from and after the ſaid Second Day of *September*, the ſaid Courts of Seſſion and Exchequer, the ſaid *April* Meeting, and all ſuch Markets, Fairs, and Marts as aforeſaid, and all Courts incident or belonging thereto, ſhall be holden and kept upon, or according to the ſame Natural Days, upon, or according to which the ſame ſhould have been ſo kept or holden in Caſe this Act had not been made; that is to ſay, Eleven Days later than the ſame would have happened, according to the Nominal Days of the ſaid New Supputation of Time, by which the Commencement of each Month, and the Nominal Days thereof, are anticipated or brought forward, by the Space of Eleven Days; any Thing in this Act contained to the contrary thereof in any wiſe notwithstanding.

The Natural Days and Times for the opening and incloſing of Commons of Paſture, not altered by this Act.

And whereas, according to divers Cuſtoms, Preſcriptions, and Uſages, in certain Places within this Kingdom, certain Lands and Grounds are, on particular Nominal Days and Times in the Year, to be opened for Common of Paſture, and other Purpoſes; and at other Times, the Owners and Occupiers of ſuch Lands and Grounds have a Right to incloſe or ſhut up the ſame, for their own private Uſe; and there is, in many other Inſtances, a temporary and diſtinct Property and Right veſted in different Perſons, in and to many ſuch Lands and Grounds, according to certain Nominal Days and Times in the Year: And whereas the anticipating or bringing forward the ſaid Nominal Days and Times by the Space of Eleven Days, according to the ſaid New Method of Supputation, might be attended with many Inconveniencies; *Be it therefore further declared, provided, and enacted by the Authority aforeſaid*, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to accelerate or anticipate the Days or Times for the opening incloſing, or ſhutting up any ſuch Lands or Grounds as aforeſaid, or the Days or Times on which any ſuch temporary or diſtinct Property or Right in or to any ſuch Lands or Grounds as aforeſaid is to commence; but that all ſuch Lands and Grounds as aforeſaid, ſhall, from and after the ſaid Second Day of *September*, be, from Time to Time, reſpectively opened, incloſed or ſhut up, and ſuch temporary and diſtinct Property and Right in and to ſuch Lands and Grounds as aforeſaid, ſhall commence and begin upon the ſame Natural Days and Times on which the ſame ſhould have been ſo reſpectively opened, incloſed, or ſhut up, or would have commenced or begun, in Caſe this Act had not been made; that is to ſay, Eleven Days later than the ſame

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ſame would have happened, according to the ſaid New Account and Supputation of Time, ſo to begin on the ſaid Fourteenth Day of *September* as aforeſaid.

Provided alſo, and it is hereby further declared and enacted, That nothing in this preſent Act contained ſhall extend, or be conſtrued to extend, to accelerate or anticipate the Time of Payment of any Rent or Rents, Annuity or Annuities, or Sum or Sums of Money whatſoever, which ſhall become payable by Vertue or in Conſequence of any Cuſtom, Uſage, Leaſe, Deed, Writing, Bond, Note, Contract, or other Agreement whatſoever, now ſubſiſting, or which ſhall be made, ſigned, ſealed, or entered into, at any Time before the ſaid Fourteenth Day of *September*, or which ſhall become payable by Virtue of an Act or Acts of Parliament now in Force, or which ſhall be made before the ſaid Fourteenth Day of *September*, or the Time of doing any Matter or Thing directed or required by any ſuch Act or Acts of Parliament to be done in Relation thereto; or to accelerate the Payment of, or increaſe the Interſt of, any ſuch Sum of Money which ſhall become payable as aforeſaid; or to accelerate the Time of the delivery of any Goods, Chattels, Wares, Merchandize, or other Things whatſoever; or the Time of the Commencement, Expiration, or Determination of any Leaſe or Demiſe of any Lands, Tenements, or Hereditaments, or of any other Contract or Agreement whatſoever; or of the accepting, ſurrendering, or delivering up the Poſſeſſion of any ſuch Lands, Tenements, or Hereditaments; or the Commencement, Expiration, or Determination of any Annuity or Rent; or of any Grant for any Term of Years, of what Nature or Kind ſoever, by Virtue or in Conſequence of any ſuch Deed, Writing, Contract or Agreement; or the Time of attaining the Age of One and twenty Years, or any other Age requiſite by any Law, Cuſtom, or Uſage, Deed, Will, or Writing whatſoever, for the doing any Act, or for any other Purpoſe whatſoever, by any Perſon or Perſons now born, or who ſhall be born before the ſaid Fourteenth Day of *September*, or the Time of the Expiration or Determination of any Apprentiſhip, or other Service, by Virtue of any Indenture, or of any Articles under Seal, or by Reaſon of any ſimple Contract or Hiring whatſoever; but that all and every ſuch Rent and Rents, Annuity and Annuities, Sum and Sums of Money, and the Interſt thereof, ſhall remain and continue to be due and payable; and the Delivery of ſuch Goods and Chattels, Wares and Merchandize, ſhall be made; and the ſaid Leaſes and Demiſes of all ſuch Lands, Tenements, and Hereditaments, and the ſaid Contracts and Agreements, ſhall be deemed to commence, expire, and determine; and the ſaid Lands, Tenements, and Hereditaments, ſhall be accepted, ſurrendered, and delivered up; and the ſaid Rents and Annuities, and Grants for any Term of Years, ſhall commence, ceaſe, and determine, at and upon the ſame reſpective Natural Days and Times, as the ſame ſhould and ought to have been payable or made, or would have happened, in Caſe this Act had not been made; and that no further or other Sum ſhall be paid or payable for the Interſt of any Sum of Money whatſoever, than ſuch Interſt ſhall amount unto, for the true Number of Natural Days for which the principal Sum bearing ſuch Interſt ſhall continue due and unpaid; and that no Perſon or Perſons whatſoever ſhall be deemed or taken to have attained the ſaid Age of One and twenty Years or any other ſuch Age, as aforeſaid, or to have completed the Time of any ſuch Service, as aforeſaid, until the full Number of Years and Days ſhall be elapſed on which ſuch Perſon or Perſons reſpectively would have attained ſuch Age, or would have completed the Time of ſuch Service, as aforeſaid, in Caſe this Act had not been made; any Thing herein before contained to the contrary thereof in any wiſe notwithstanding.

The Natural Days and Times of Payment of Rents, Annuities, Sums of Money, or Interſt,

or of the Delivery of Goods.

Commencement or Expiration of Leaſes, &c.

or of attaining the Age of 21 Years, &c. not altered by this Act.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-ninth Day of *May* 1751. And continued by Prorogations to Friday the twenty-seventh Day of *December* following.

C H A P. X.

An Act in Addition to an Act made and passed in the thirteenth Year of King *William* the Third, Intituled *An Act providing in Case of Sickness*.

Cloathing and other Goods suspected to be infected liable to be stop'd and secured.

Manner of proceeding therein.

Penalty for not assisting the Officer.

WHERE it enacted by the Lieutenant Governour, Council and House of Representatives, That when and as often as there shall be brought in to any Town within this Province, whether it shall be from any other Town within the Province, or from Parts without the Province, any Baggage, Cloathing or Goods of any Kind, soever, and it shall be made to appear by the Select-Men of the Town (or major Part of them) to which such Baggage, Cloathing or other Goods shall be brought to the Satisfaction of any one of his Majesty's Justices of the Peace, that there is just Cause to suspect such Baggage, Cloathing or other Goods to be infected with the Plague, Small-Pox, Pestilential Fever, or other malignant contagious Distemper, it shall and may be lawful for such Justice of the Peace, and he is hereby required in such Case by Warrant under his Hand and Seal directed to the Sheriff or his Deputy or any Constable of the Town in which such Baggage, Cloathing or other Goods shall be, requiring him to impress so many Men as said Justice shall judge necessary to secure such Baggage, Cloathing or other Goods to be secured, and said Men to set and post as a Guard and Watch over the House or Houses or other Place or Places where such Baggage, Cloathing or other Goods shall be lodged; which Guard and Watch are hereby required to take effectual Care to prevent such Baggage, Cloathing or other Goods being removed or intermeddled with by any Persons whatever, until due Inquiry be made into the Circumstances thereof; and in Case it shall appear to the said Justice highly probable that such Baggage, Cloathing or other Goods are infected with the Plague, Small-Pox, Pestilential Fever, or other malignant contagious Distemper, said Justice is hereby impowred and directed to issue a Warrant under his Hand and Seal directed to the Sheriff or his Deputy or the Constable of the Town where such Goods, Cloathing or Baggage shall be, requiring said Sheriff, Deputy or Constable to remove said Baggage Cloathing or other Goods, to some convenient House or Place from whence there shall be the least Danger of the Infection's Spreading, or being conveyed, there to remain until such Baggage, Cloathing or other Goods shall be sufficiently aired, and until it shall appear to the Satisfaction of the Select men of the Town where such Baggage, Cloathing or other Goods shall be, that they be free from all Infection; and said Sheriff, Deputy Sheriff or Constable in the Execution of said Warrant, are impowred and directed if need be, to break up any House, Warehouse, Shop or other Place or Places (particularly mentioned in such Warrant) where such Baggage, Cloathing or other Goods shall be; and in Case of Opposition or Resistance, to require such Aid and Assistance as shall be necessary to effect the Removal of such Baggage, Cloathing or other Goods, and repel the Force and Resistance which shall or may be made thereto: And all Persons are hereby required at the Commandment of either of the said Officers having such Warrant (under the Penalty of *forty Shillings* to be recovered before the Justice granting the same) to assist said Officer in the removing said Baggage, Cloathing or other Goods, unless they make an Excuse to the Satisfaction of such Justice; and the Charges

Review in Civil Causes.

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Charges of securing such Baggage, Cloathing and other Goods, transporting and airing the same shall be born and paid by the Owners thereof, at such Rates and Prizes as shall be set and appointed by the Select-Men of the Town, where such Baggage, Cloathing or other Goods shall be, and in Case of Refusal, to be recovered by Suit at Law by all and every Person and Persons concerned and employed in and about the Business of securing, removing and airing said Baggage, Cloathing or other Goods.

Charges to be born by the Owner of the Goods &c.

And be it further enacted, That if Need so require, any Justice of the Peace may, and is hereby impowered on Application to him made by the Select-Men of the Town in which such infected Baggage, Cloathing or other Goods shall be, to make out a Warrant to the Sheriff of the County or his Deputy or Constable of the Town where such Baggage, Cloathing or other Goods shall be, requiring said Officer with the Advice and Direction of the Select-Men of said Town, to impress and take up convenient Housing or Stores for the receiving, lodging and safe keeping thereof, until the same shall be sufficiently aired as aforesaid.

Warrants to be made out to take up convenient Housing.

C H A P. XI.

An Act in further Addition to the Act Intituled *An Act* 13 w. c. 16. for Review in Civil Causes.

WHEREAS the Defendant in any Personal Action may by Force of the Act made in Addition to the Act Intituled *An Act* for Review in Civil Causes, have Execution of the Judgment of the Superiour Court of Judicature Court of Assize and General Goal Delivery given on the Trial of the Appeal, stayed six Months in some Counties, and a Year in others, only by giving Bond with Security approved of by that Court at the Time of entering such Judgment conditioned to prosecute a Writ of Review of such Action with Effect at the next Superiour Court of Judicature Court of Assize and General Goal Delivery to be holden in and for the County where such Judgment is given, and to answer and pay the original Plaintiff double Interest for the Debt recovered, and double additional Costs in Case the Judgment be affirmed, although the Estate attach'd by Force of the original Writ is not thereby held or subjected to satisfy the Plaintiffs Demand for more than thirty Days after the Judgment given on the Appeal, and in all Cases where Bail is given to the Action the Sureties cannot be compelled either to satisfy the Judgment or deliver up the Principal.

Preamble.

Wherefore for preventing Creditors being defrauded of their just Debts by Executions being so stayed :

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That Execution of the Judgment of the Superiour Court of Judicature Court of Assize and General Goal Delivery given on the Trial of the Appeal in any Suit, shall not be stayed, unless the original Defendant his Executors or Administrators give Bond at the Time of entering such Judgment to the Party or Parties that obtained the same, with sufficient Sureties, to be approved of by the Court, in double the Sums recovered to review the Action at the next Superiour Court of Judicature, Court of Assize and General Goal Delivery to be holden in and for that County, and to pay to the Party or Parties that obtained the Judgment upon the Trial of the Appeal the Sum so recovered with Interest therefor, after the Rate of *twelve per Cent.* per Annum, and double the Costs arising on such Review, if the Judgment be not thereon reversed, in whole or in Part, or otherwise satisfied, and if reversed in Part only then to pay him or them that obtained the Judgment on the Trial of the Appeal what remains due by Force thereof, and is not reversed by the Judgment of said Court given on such Review or otherwise satisfied, together with Interest therefor after the Rate of *six per Cent.* per Annum.

Bond to be given for prosecuting Reviews where Execution is stayed in double the Sum recovered and Costs.

Provided always, That nothing in this Act shall extend to any Suit already commenced, wherein upon the mean Process Bail was given or Estate attached.

Proviso.

ACTS

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Concord* in the County of *Middlesex*, upon Wednesday the twenty-seventh Day of *May*, 1752.

C H A P. I.

An Act in further Addition to the Act for Limitation of Actions and for avoiding Suits at Law where the Matter is of long Standing.

13 G. 2. ca. 3.

Preamble.

WHEREAS in a late Law of this Province intituled, "An Act in Addition to and for Explanation of an Act, intituled, An Act for Limitation of Actions, and avoiding Suits at Law where the Matter is of long Standing," made and passed in the twenty-second Year of his present Majesty's Reign, the Time limited for commencing of all Actions of Account, and upon the Case (excepting as therein is excepted) will expire in September next; and whereas the Difficulties arisen by the Exchange of the Medium of Trade in this Province, and the Prevalency of the Small-Pox in Boston, and sundry other Towns in this Government, render it almost impracticable to have such Accounts and Actions of the Case settled within the Time by said Act limited for that Purpose:

Act continued till Sept. 1754.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the Time for commencing of Actions of Accounts and of the Case, by said Act limited as aforesaid, be and the same is hereby extended to the first Day of September, which will be in the Year of our Lord One Thousand seven Hundred and fifty-four; and no Suit hereafter to be brought in such Cases shall be barred, if commenced before the Expiration of said Term.

C H A P. II.

An Act in Addition to an Act for the more speedy Extinguishment of Fire, and preserving Goods endangered by it.

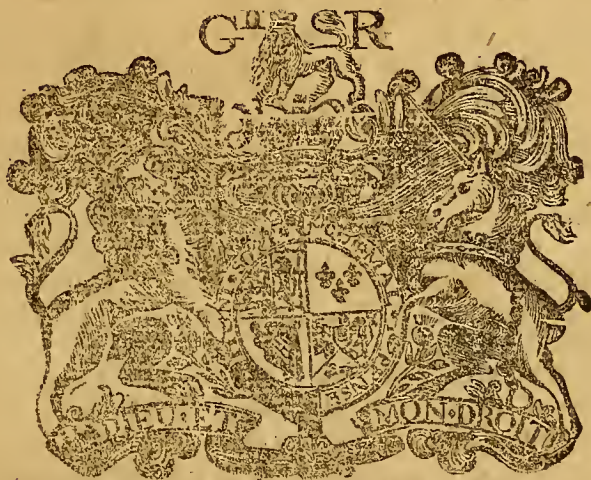
10 A. ca. 2.

Preamble.

WHEREAS in and by an Act made and passed in the eighteenth Year of his present Majesty's Reign, intituled, "An Act for the more speedy Extinguishment of Fire, and preserving Goods endangered by it;" It is enacted that the several Towns within this Province may, if they see fit, at their anniversary Meeting in March annually, appoint a suitable Number of Persons, not exceeding ten, who shall be denominated Fire Wards; whose particular Business shall be to take Care and govern at Fires, (which from Time to Time may break out,) as in and by said Act, they are directed and impowered to do: And whereas by Experience the Fire Wards who have been annually chosen by the Town of Boston, have been found to be of great Use and Service to the said Town at Times of Fires; and it is apprehended, it would greatly serve the said Town if their Numbers were increased:

Town of Boston impowered to chuse twelve Fire Wards.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That it shall and may be lawful for the Town of Boston, (who at present have ten Fire Wards) at any Town Meeting warned for that Purpose, to elect and appoint two more meet Persons as Fire Wards who shall serve in that Office, till their anniversary Meeting in March next; and from thenceforward (as they shall see Cause) to choose twelve Persons for that Purpose annually, who shall do the Duty and be invested with the like Powers and Priviledges as Fire Wards in and by the said Act are invested withal.



At the Parliament begun and holden at *Westminster*, the Tenth Day of *November*; *Anno Dom.* 1747, in the Twenty-first Year of the Reign of our Sovereign Lord *GEORGE* the Second, by the Grace of God; of *Great Britain*, *France* and *Ireland*, King, Defender of the Faith, &c.

And from thence continued by several Prorogations to the Fourteenth Day of *November*, 1751, being the Fifth Session of this present Parliament.

CHAPTER III.

An Act for avoiding and putting an End to certain Doubts and Questions, relating to the Attestation of Wills and Codicils, concerning Real Estates, in that Part of *Great Britain* called *England*, and in his Majesty's Colonies and Plantations in *America*.

WHEREAS by an Act made in the Twenty ninth Year of the Reign of His late Majesty King *Charles* the Second, intituled *An Act for Prevention of Frauds and Perjuries*; it is, amongst other Things enacted, That from and after the Twenty-fourth Day of *June*, in the Year of our Lord One Thousand six Hundred and seventy seven, all Devises and Bequests of any Lands or Tenements deviseable, either by Force of the Statute of Wills, or by that Statute, or by Force of the Custom of *Kent*, or the Custom of any Borough, or any other particular Custom, shall be in Writing, and signed by the Party so devising the same, or by some other Person in his Presence and by his express Direction; and shall be attested and subscribed in the Presence of the said Devisor, by three or four credible Witnesses, or else they shall be utterly Void and of none Effect, which hath been found to be a wise and good Provision: But whereas Doubts have arisen who are to be deemed legal Witnesses, within the Intent of the said Act:

Therefore for avoiding the same,

Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That if any Person shall attest the Execution of any Will or Codicil, which shall be made after the Twenty fourth Day of *June*, in the Year of our Lord One Thousand seven Hundred and fifty two, to whom any beneficial Devise, Legacy, Estate, Interest, Gift, or Appointment of, or affecting any Real or Personal Estate, other than and except Charges on Lands, Tenements, or Hereditaments, for Payment of any Debt or Debts, shall be thereby given or made, such Devise, Legacy, Estate, Interest, Gift, or Appointment, shall, so far only as

Preamble reciting Clause in an Act of 29 Car. II.

Devisee, &c. attesting, the Devise void, but he admitted to prove Will.

Atteſtation of Wills, &c.

concerns ſuch Perſon atteſting the Execution of ſuch Will or Codicil, or any Perſon claiming under him, be utterly null and void; and ſuch Perſon ſhall be admitted as a Witneſs to the Execution of ſuch Will or Codicil, within the Intent of the ſaid Aſt; notwithstanding ſuch Devife, Legacy, Eſtate, Intereſt, Gift, or Appointment, mentioned in ſuch Will or Codicil.

Creditor at-
teſting, admit-
ted a Witneſs
to the Will.

And be it further enacted by the Authority aforeſaid, That in Caſe, by any Will or Codicil already made or hereafter to be made, any Lands, Tenements, or Hereditaments, are, or ſhall be charged with any Debt or Debts; and any Creditor whoſe Debt is ſo charged, hath atteſted, or ſhall atteſt the Execution of ſuch Will or Codicil, every ſuch Creditor, notwithstanding ſuch Charge, ſhall be admitted as a Witneſs to the Execution of ſuch Will or Codicil, within the Intent of the ſaid Aſt.

Legatee who
has been paid
or ſhall reſuſe
his Legacy,
admitted a
Witneſs to
the Will.

And be it further enacted by the Authority aforeſaid, That if any Perſon hath atteſted the Execution of any Will or Codicil already made, or ſhall atteſt the Execution of any Will or Codicil which ſhall be made on or before the ſaid Twenty-fourth Day of *June*, in the Year of our Lord One Thouſand ſeven Hundred and fifty-two, to whom any Legacy or Bequeſt is or ſhall be thereby given, whether charged upon Lands, Tenements, or Hereditaments, or not; and ſuch Perſon, before he ſhall give his Teſtimony concerning the Execution of any ſuch Will or Codicil, ſhall have been paid, or have accepted or releaſed, or ſhall have reſuſed to accept ſuch Legacy or Bequeſt, upon Tender made thereof; ſuch Perſon ſhall be admitted as a Witneſs to the Execution of ſuch Will or Codicil, within the Intent of the ſaid Aſt, notwithstanding ſuch Legacy or Bequeſt.

After Tender
and Reſuſal,
he is barred
from the Le-
gacy; but af-
ter Accep-
tance, he may
retain the
ſame, tho' the
Will be ad-
judged void.

Provided always, and be it further enacted, That in Caſe of ſuch Tender and Reſuſal, as aforeſaid, ſuch Perſon ſhall in no wiſe be intitled to ſuch Legacy or Bequeſt, but ſhall be for ever afterwards barred therefrom; and in Caſe of ſuch Acceptance, as aforeſaid, ſuch Perſon ſhall retain to his own Uſe the Legacy or Bequeſt which ſhall have been ſo paid, ſatiſfied, or accepted, notwithstanding ſuch Will or Codicil ſhall afterwards be adjudged or determined to be void, for want of due Execution, or for any other Cauſe or Defect whatſoever.

Legatee atteſt-
ing, and dying
in the Life-
time of the
Teſtator, or
before he has
received or re-
ſuſed his Le-
gacy, admit-
ted a Witneſs to
the Will.

And be it further enacted, That in Caſe any ſuch Legatee, as aforeſaid, who hath atteſted the Execution of any Will or Codicil already made, or ſhall atteſt the Execution of any Will or Codicil, which ſhall be made on or before the ſaid Twenty-fourth Day of *June*, in the Year of our Lord One Thouſand ſeven Hundred and fifty-two, ſhall have died in the Life-time of the Teſtator, or before he ſhall have received or releaſed the Legacy or Bequeſt ſo given him, as aforeſaid, and before he ſhall have reſuſed to receive ſuch Legacy or Bequeſt, on Tender made thereof, ſuch Legatee ſhall be deemed a legal Witneſs to the Execution of ſuch Will or Codicil, within the Intent of the ſaid Aſt, notwithstanding ſuch Legacy or Bequeſt.

Credit of the
Witneſs to be
conſider'd and
determined by
the Court.

Provided always, That the Credit of every ſuch Witneſs, ſo atteſting the Execution of any Will or Codicil, in any of the Caſes in this Aſt before-mentioned, and all Circumſtances relating thereto, ſhall be ſubject to the Conſideration and Determination of the Court, and the Jury, before whom any ſuch Witneſs ſhall be examined, or his Teſtimony or Atteſtation made Uſe of; or of the Court of Equity, in which the Teſtimony or Atteſtation of any ſuch Witneſs ſhall be made Uſe of; in like Manner, to all Intents and Purpoſes, as the Credit of Witneſſes in all other Caſes ought to be conſidered of, and determined.

No Devifee,
where the De-
viſe is made
void; nor Le-
gatee, who has
reſuſed to ac-
cept of the Le-
gacy; being
examined to
the Execution
of the Will,
ſhall after-
wards demand
or take any
Benefit, or
Compensation
for the ſame.

And be it further enacted by the Authority aforeſaid, That no Perſon, to whom any beneficial Eſtate, Intereſt, Gift, or Appointment, ſhall be given or made, which is hereby enacted to be null and void, as aforeſaid, or who ſhall have reſuſed to receive any ſuch Legacy or Bequeſt, on Tender made, as aforeſaid, and who ſhall have been examined as a Witneſs concerning the Execution of ſuch Will or Codicil, ſhall, after he ſhall have been ſo examined, demand or take Poſſeſſion of, or receive, any Profits or Benefit of or from, any ſuch Eſtate, Intereſt, Gift, or Appointment, ſo given or made to him, in or by any ſuch Will or Codicil; or demand, receive, or except, from any Perſon or Perſons whatſoever, any ſuch Legacy or Bequeſt, or any Satisfaction or Compensation for the ſame, in any Manner or under any Colour of Pretence whatſoever.

Provided

Attestation of Wills, &c.

Provided always, and be it enacted by the Authority aforesaid, That this Act, or any Thing herein contained, shall not extend, or be construed to extend, to the Case of any Heir at Law, or of any Devisee in a prior Will or Codicil of the same Testator, executed and attested according to the said recited Act, or any Person claiming under them respectively, who has been in quiet Possession for the Space of two Years next preceeding the sixth Day of May, in the Year of our Lord, One Thousand seven Hundred and fifty-one, as to such Lands, Tenements, and Hereditaments, whereof he has been in quiet Possession as aforesaid; and also that this Act, or any Thing herein contained, shall not extend, or be construed to extend, to any Will or Codicil, the Validity or due Execution whereof hath been contested in any Suit in Law or Equity commenced by the Heir of such Devisor, or the Devisee in any such prior Will or Codicil, for recovering the Lands, Tenements, or Hereditaments, mentioned to be devised in any Will or Codicil so contested, or any Part thereof, or for obtaining any other Judgment or Decree relative thereto, on or before the said sixth Day of May in the Year of our Lord One Thousand seven Hundred and fifty-one, and which has been already determined in Favour of such Heir at Law, or Devisee in such prior Will or Codicil, or any Person claiming under them respectively, or which is still depending; and has been prosecuted with due Diligence; but the Validity of every such Will or Codicil, and the Competency of the Witnesses thereto, shall be adjudged and determined in the same Manner, to all Intents and Purposes, as if this Act had never been made; any Thing herein before contained to the contrary thereof in any wise notwithstanding.

Cases particularized, where the Validity of Wills & Competency of Witnesses are not affected by this Act.

Provided always nevertheless, and it is hereby declared, That no Possession of any Heir at Law, or Devisee in such prior Will or Codicil as aforesaid, or of any Person claiming under them respectively, which is consistent with, or may be warranted by or under, any Will or Codicil, attested according to the true Intent and Meaning of this Act, or where the Estate descended or might have descended, to such Heir at Law, till a future or executory Devise, by Virtue of any Will or Codicil attested according to this Act should or might take Effect, shall be deemed to be a Possession within the Intent and Meaning of the Clause herein last before contained.

Possessions which are not comprehended within the Meaning of the preceding Clause.

And whereas in some of the British Colonies or Plantations in America, the said Act of the twenty-ninth Year of the Reign of King Charles the Second, has been received for Law, or Acts of Assembly have been made, whereby the Attestation and Subscription of Witnesses to Devises of Lands, Tenements, and Hereditaments, have been required:

Therefore, to prevent and avoid Doubts which may arise in the said Colonies or Plantations, in Relation to the Attestation of such Devises of Lands, Tenements, and Hereditaments;

Be it enacted by the Authority aforesaid, That this Act, and every Clause, Matter, and Thing therein contained, shall extend to such of the said Colonies and Plantations, where the said Act of the twenty-ninth Year of the Reign of King Charles the Second, is by Act of Assembly made, or by Usage received as Law, or where by Act of Assembly or Usage, the Attestation and Subscription of a Witness or Witnesses are made necessary to Devises of Lands, Tenements, or Hereditaments; and shall have the same Force and Effect in the Construction of, or for the avoiding of Doubts upon the said Acts of Assembly, and Laws of the said Colonies and Plantations, as the same ought to have, in the Construction of, or for the avoiding of Doubts upon, the said Act of the twenty-ninth Year of the Reign of King Charles the Second in England.

This Act to extend to such of the British Colonies in America, where the Act of 19 Car. II. is received as a Law, &c.

Provided always, That as to Cases arising in any of the said Colonies or Plantations in America, no such Devise, Legacy, or Bequest as aforesaid, shall be made null and void, by Virtue of this Act, unless the Will or Codicil whereby such Devise, Legacy, or Bequest shall be given, shall be made after the first Day of March, which shall be in the Year of our Lord One Thousand seven Hundred and fifty-three.

Devises, &c. by Wills & Mar 1753, to be only void.

Suppressing of Lotteries.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Concord* in the County of *Middlesex*, upon Wednesday the twenty-seventh Day of *May* 1752. And continued by Prorogations and Adjournment to Wednesday the twenty-eighth of *March* following, and then met at *Boston*.

C H A P. I.

6 G. ca. 1. An Act in Addition to the several Acts or Laws for the suppressing of Lotteries.

Preamble.

*W*HEREAS divers good and wholesome Laws have been made and pass'd by this Government for suppressing of Lotteries, and thereby preventing a vain and foolish Expence, tending to the Impoverishment of unwary People; which Laws are in a great Measure rendred ineffectual by the Lotteries which are frequently set up in the Neighbouring Governments, and by the Sale of such Lottery Tickets to the Inhabitants of this Province:

Penalty for publishing Lottery Tickets of other Governments.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That if any Person or Persons after the tenth Day of *May* next, shall within this Province be aiding or assisting in any Lottery, by Printing, Writing, or any otherways Publishing an Account of the Sale of such Lottery Ticket or Tickets, such Person or Persons shall for such Offence forfeit a Sum not exceeding *twenty Pounds*, to be recovered by Information, Complaint, Bill or Action at Law, in any of His Majesty's Courts of Record within this Province; the one Half thereof to His Majesty to be applied towards the Support of this Government, and the other Half to him or them that shall inform and sue for the same.

Penalty for selling Lottery Tickets.

And be it further enacted, That if any Person or Persons shall within this Province give, sell, or otherwise dispose of, or shall therein offer or expose to Sale any Ticket or Tickets in any Lottery, excepting such as shall be established by Act of Parliament, or by Act of this Government, such Person or Persons so offending, shall forfeit a Sum not exceeding *forty Pounds* for each Ticket so given, sold or disposed of, or so exposed to Sale, to be recovered in Manner and for the Use aforesaid.

Penalty for buying Lottery Tickets.

And be it further enacted, That if any Person or Persons within this Province, shall receive or purchase any such Lottery Ticket or Tickets, such Person or Persons shall likewise forfeit a Sum not exceeding *forty Pounds* for each Ticket so received or purchased by him or them, to be likewise recovered and applied as in Manner aforesaid.

Person informing to be freed.

Provided nevertheless, That if such Receiver or Purchaser shall inform against or prosecute the Person or Persons who gave, sold or disposed of the same, so as that he or they shall be convicted of said Offence, such Receiver or Purchaser shall not in that Case be liable to the Penalty aforesaid, but shall be wholly freed and exempted therefrom.

Proprietors Meetings.

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An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* in the County of *Suffolk*, upon Wednesday the thirtieth Day of *May*, 1753.

C H A P. II.

An Act in Addition to an Act Intituled *An Act directing how Meetings of Proprietors of Lands lying in common may be called.* 12 A. ca. 2.

WHEREAS there are sundry Tracts of common and undivided Lands in this Province lying within no Township or Precinct, which are owned by considerable Numbers of Proprietors, and no effectual Provision has as yet been made by Law, either for calling Meetings of the Proprietors of such Lands, or for the raising and collecting Monies granted for the common Good and Service of such Proprietors; whereby the Settlement and Improvement of such Lands have been much obstructed and delayed: Preamble.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That whensoever five, (where there are so many) or the major Part of the Owners or Proprietors of such common Lands (where the Number shall be less) shall judge it expedient to have a Meeting of the Proprietors thereof, and shall thereupon by Writing apply by Petition to any Justice of the Peace for the County wherein such their Lands as aforesaid lie, or to a Justice of the Peace thro' this Province, to call a Meeting of any such Proprietors as aforesaid, to be had at such Time and Place and on such Occasions as shall be expressed in such Petition, such Justice so applied unto, is hereby authorized and directed to grant and issue out his Warrant directed to one of the Proprietors desiring such Meeting, or to the Clerk of such Propriety (if there be one) requiring him to notify and warn the other Proprietors of such common Lands to meet and assemble together at the Time and Place appointed therefor as aforesaid; which Notice and Warning shall be given by advertising the same, with the Time Place and Occasions of Meeting, in the several *Boston Weekly News-Papers* forty Days at least before the Day appointed for such Meeting; and such Proprietors may by themselves or their lawful Attorneys at such Meeting appoint such a Method for calling their Meetings for the future as they shall judge most convenient, which shall always be under the same Regulations as all other Proprietary Meetings are, and may choose a Clerk and such other Officers as are usually chosen by other Proprieties, then and from Time to Time as their Occasions shall require, and may transact and pass upon any other Matters and Affairs for the Benefit of such Propriety, which the Proprietors of new Townships or Plantations granted by this Government are by Law enabled to do, provided such Matters be mentioned in the Notifications for such Meetings; and such Clerk being duly sworn as the Clerks of other Proprieties by Law ought to be, shall have the like Power with them. Method of calling Proprietors Meetings.
Powers of the said Proprietors in their Meetings.

And be it further enacted, That such Proprietors at any of their Meetings pursuant to this Act, may by themselves or their lawful Attorneys, grant and order any suitable Sum or Sums of Money to be raised and levied upon their several Rights in such Lands equally and rateably according to their respective Interests and Shares therein, for bringing forward and compleating the Settlement of such common Lands, and for the Prosecution or defending any Law Suits for or against such Proprietors, and for carrying on and managing any other Affairs for the common Good of such Proprieties; and every such Proprietor as shall neglect to pay to the Collector or Treasurer or Committee of such Propriety such Sum or Sums of Money, as shall from Time to Time be duly granted and voted to be raised and levied upon his Right and Share in such Lands for the

Space

To raise Monies for the Use of the Propriety.

And to make
Sale of the
Lands of the
Delinquents.

Space of six Months to those who live in the Province, and twelve Months to those who live out of the Province, after such Grant and his Proportion thereof shall be published in the several publick Prints, as aforesaid, then the Committee of the Proprietors of such common Lands, or the major Part of such Committee may and are hereby fully impowered from Time to Time at a publick Vendue to sell and convey away so much of such delinquent Proprietors Right or Share in said common Lands as will be sufficient to pay and satisfy his Tax or Proportion of such Grant, and all reasonable Charges attending such Sale, to any Person that will give most for the same; Notice of such Sale being given in the said Prints forty Days at least before Hand, and may accordingly execute and give a good Deed or Deeds of Conveyance of the Lands so sold, unto the Purchaser thereof, to hold in Fee Simple.

Proviso.

Provided nevertheless, That the Proprietor or Proprietors whose Right or Share in such Lands shall be so sold, shall have Liberty to redeem the same in twelve Months after said Sale, by paying the Sum the Land sold for and Charges, together with the further Sum of *twelve Pounds* for each Hundred Pounds produced by such Sale; and so *pro rata* for any less or greater Sum.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, in the County of *Suffolk*, upon the thirtieth of *May*, 1753. And from thence continued by Prorogations to Tuesday the fourth Day of *December*, 1753.

CHAP. I.

An Act in Addition to an Act Intituled *An Act impowering Justices of the Peace to decide Differences not exceeding Forty Shillings.*

§ W. ca. 2.

Preamble.

WHEREAS in and by an Act made and passed in the ninth Year of his late Majesty King William the Third, impowering Justices of the Peace to decide Differences not exceeding Forty Shillings; it is among other Things provided, That all Justices shall keep fair Records of all their Proceedings from Time to Time; but no Provision is therein made in Case of a Justice's Death for executing a Judgment given and recorded by him, which remains unsatisfied at the Time of his Decease:

Writ of Scire
Facias to be
issued on the
Judgment of
a deceased
Justice.

Be it therefore enacted by the Governour, Council and House of Representatives, That where Judgment is or shall be given by a Justice of the Peace in any Civil Action of which by Law he had Cognizance, and a fair Record thereof made by him; if the same remains unsatisfied at the Time of his Decease, it shall and may be lawful for any Justice of the Peace of the same County (upon Application made to him by the Party who recovered the Judgment) to issue out a Writ of *Scire Facias* thereon, returnable to himself in seven Days; and upon the Debtor's Default of Appearance, or not shewing just Cause to the contrary, the same Justice may award Execution of such Judgment, returnable to himself in thirty Days, and likewise award reasonable Costs on the *Scire Facias*; provided that no Writ of *Scire Facias* shall be granted as aforesaid, unless Application be made therefor within twelve Months after the Decease of the Justice before whom the Judgment was recovered.

Persons hav-
ing such
Judgments
in Keeping
to deliver an
attested Copy.

And be it further enacted, That any Person who hath in his or her keeping the Records of a deceased Justice (being requested by the Party who hath a Judgment there entered as aforesaid, and being tendered a reasonable Sum for his or her Time and Trouble) shall without Delay deliver an attested Copy of such

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ſuch Records to the Perſon requeſting the ſame, which Copy certified on Oath, ſhall be received and accounted as ſufficient Evidence, as if the Juſtice was then living; And if he or ſhe ſhall neglect it by the Space of three Days, he or ſhe ſhall for his or her Neglect, forfeit the Sum of *Three Pounds*, to the Uſe of the Party aggrieved, to be by him recovered in an Action of Debt in any of his Maſteſty's Courts of Record. Penalty for Neglect or refusal.

And whereas in and by an Act, made in the ſecond Year of the Reign of her late Maſteſty Queen Anne, Intituled An Act relating to Executors and Adminiſtrators, Proviſion is made in Caſe of *Waste* for awarding Execution againſt an Executor or Adminiſtrator of his own proper Goods or Eſtate on a Scire Facias to be iſſued out of the Clerk's Office of the ſame Court, where Judgment has been recovered againſt the Eſtate of a Teſtator or Inteſtate, but no Proviſion hath been made in like Caſes cognizable before a Juſtice of the Peace:

Be it therefore further enacted, That in all ſuch Caſes, it ſhall and may be lawful for a Juſtice of the Peace to iſſue out a Writ of *Scire Facias*, and award Execution thereupon in like Manner as may be done in any Court of Record, by Virtue of the Proviſion in this Act laſt mentioned. Juſtices of Peace im-
powered to
iſſue ſuch
Writs of
Scire Facias.

C H A P. II.

An Act for the more eaſy recovering the Charges that attend the Partition and Settlement of Real Eſtates, and to cauſe the Perſons intereſted in ſuch Eſtates to be duly notified before Partition be ordered.

WHEREAS it ſometimes happens that ſome of the Perſons intereſted in Real Eſtates reſuſe to pay their rateable Proportion of the neceſſary Charge which attends the dividing or ſettling the ſame:

Be it therefore enacted by the Governour, Council and Houſe of Representatives, That when and ſo often as Partition ſhall be made of any Real Eſtate by the Rules of the Common Law, and when and ſo often as any Real Eſtate ſhall be ſettled or divided, agreeable to the ſpecial Proviſion made by the Laws of this Province, in any and every ſuch Caſe when any one or more of the Parties intereſted ſhall neglect or reſuſe to pay their juſt Proportion of the Charge which may attend ſuch Division or Settlement, it ſhall and may be lawful for the Court by which ſuch Division or Settlement ſhall be made, to iſſue forth a Warrant of Diſtreſs againſt any Delinquent or Delinquents intereſted as aforeſaid. Warrant of Diſtreſs to be iſſued on Perſons reſuſing to pay Charges on the Division of Eſtates.

Provided, an Account of ſuch Charge be firſt laid before the ſaid Court, and the juſt Proportion of the Perſons intereſted ſettled and allowed, they having been duly notified to be preſent at ſuch Settlement or Allowance, if they ſee Cauſe. Proviſo.

And be it further enacted, That when and ſo often as any Petition ſhall be prefer'd to the Juſtices of the Superiour Court to order Partition of any Real Eſtate held in common and undivided, the ſaid Juſtices ſhall not proceed to order ſuch Partition until it ſhall be made appear to them that the ſeveral Perſons intereſted in ſuch Eſtate, and living within this Province, or the Attorneys of ſuch as are abſent and have Attorneys reſiding within this Province, have been duly notified of ſuch Petition, and have had Opportunity to make their Exception to the granting the ſame. Superiour Court to notify Perſons concerned before Eſtates be divided.
4 W. & M.
ca. 2.

C H A P. III.

An Act in Addition to an Act made in the fifth Year of her late Maſteſty Queen Anne, Intituled An Act for a new Choice of Town Officers on ſpecial Occaſions. 4 W. & M.
ca. 13.

WHEREAS in and by ſaid Act it is provided, That in Caſe of the Non-acceptance, Death or Removal of any Perſon choſen to Office in any of the Towns in this Province, at their annual Meeting in March, the ſaid Preamble:

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ſaid Towns may upon due Warning given and Notice of the Occaſion, chooſe any Officer or Officers to fill up ſuch Vacancy, but by ſaid Act no Proviſions made reſpecting Precincts, from which Inconveniencies have often happened :

Precincts to have the ſame Power in chooſing Officers Towns have.

Be it therefore enacted by the Governour, Council and Houſe of Representatives, That from and after the tenth Day of January next, the ſeveral Precincts within this Province ſhall have and enjoy the ſame Power and Privileges in the chooſing any Officer or Officers where ſuch Vacancy happens in them, as Towns by Law are inveſted with.

C H A P. IV.

An Act in Addition to an Act Intituled *An Act againſt diminishing or counterfeiting Money.*

2 A. ca. 1.

Preamble.

WHEREAS in and by an Act made and paſſed in the twenty third Year of his preſent Maſteſty's Reign Intituled, *An Act againſt diminishing or counterfeiting Money,* it is among other Things provided, that when any Perſon ſhall be convicted of any of the Offences therein mentioned at the Superiour Court of Judicature, Court of Aſſize and General Goal Delivery; every ſuch Perſon ſhall be fined at the Diſcretion of the ſaid Court : And whereas it ſometimes happens that ſuch Offender is not able to pay the adjudged Fine, or ſo much as the Coſts of Proſecution :

Perſons convicted for counterfeiting or diminishing Money to be ſold in Caſe.

Be it enacted by the Governour, Council and Houſe of Representatives, That when any Perſon ſhall be convicted as aforeſaid, and thereupon ſentenced by the ſaid Court to pay a Fine, if ſuch Offender ſhall be unable, or ſhall reſuſe to pay the ſame, together with the Coſts of Proſecution, the Sheriff of the County where ſuch Offender ſhall have been ſo convicted, ſhall be and hereby is impowered to diſpoſe of ſaid Offender in Service to any of his Maſteſty's Subjects for ſuch Term as ſhall be aſſigned by the Court aforeſaid, not exceeding the Space of ten Years ; And the Sheriff ſhall pay the Money thereby raiſed into the publick Treafury, having firſt deducted ſo much as ſhall be neceſſary to pay the Coſt of Proſecution.

Acts and Laws,

Paſſed by the Great and General Court or Aſſembly of His Maſteſty's Province of the *Maſſachuſetts-Bay* in *New-England*, Begun and Held at *Boston*, in the County of *Suffolk*, upon Wednesday the thirtieth Day of *May* 1753, And continued by Prorogations to Wednesday the twenty-ſeventh Day of *March* following, and then met.

C H A P. V.

An Act for altering the Times appointed for holding the Superiour Court of Judicature Court of Aſſize and General Goal Delivery within and for the Counties of *Effex* and *York*, and alſo for altering ſome of the Courts of General Sessions of the Peace and Inferiour Courts of Common Pleas within and for the Counties of *Plymouth*, *Barnſtable* and *York*.

Preamble.

WHEREAS the Times by Law appointed for holding the Superiour Court of Judicature Court of Aſſize and General Goal Delivery at *Ipswich* within and for the County of *Effex*, and at *York* within and for the County of *York*, and the holding the Courts of General Sessions of the

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the Peace, and the Inferiour Court of Common Pleas the third Tuesday of September, within and for the County of Plymouth; and the holding the Courts of General Sessions of the Peace and the Inferiour Courts of Common Pleas on the last Tuesday of June, the third Tuesday of October, and the third Tuesday of January, within and for the County of Barnstable; and the holding the Court of General Sessions of the Peace and the Inferiour Court of Common Pleas within and for the County of York on the first Tuesday of July, are found inconvenient:

Be it therefore enacted by the Governour, Council and House of Representatives, That the Time for holding the Superiour Court of Judicature Court of Assize and General Goal Delivery at *Ipswich* for the County of *Essex*, shall henceforth be the second Tuesday of *June* annually; and the Time for holding the said Court at *York* for the County of *York* shall henceforth be the third Tuesday of *June* annually; And the Time for holding the Court of General Sessions of the Peace and the Inferiour Court of Common Pleas within and for the County of *Plymouth*, shall henceforth be the last Tuesday of *September* annually; and the Times for holding the said Courts of General Sessions of the Peace and the Inferiour Courts of Common Pleas within and for the said County of *Barnstable*, shall henceforth be the second Tuesday in *May*, the third Tuesday in *September*, and the first Tuesday in *December* annually; And the Time for holding the Court of General Sessions of the Peace and the Inferiour Court of Common Pleas within and for the County of *York*, shall henceforth be the second Tuesday of *July* annually; And all Officers and other Persons concerned are required to conform themselves accordingly.

Superiour Court in *Essex* and *York* Counties altered.

And be it further enacted, That all Appeals, Writs of Review, Recognizances, Warrants and other Processess already issued, taken or depending in the said Counties of *Essex* or *York*, which were to have been returned or proceeded on at the Times heretofore appointed by Law for holding the said Superiour Courts at *Ipswich* or *York*, shall be valid and stand good to all Intents and Purposes in the Law, and shall be returned and proceeded on at the Times appointed by this Act for holding the said Superiour Courts respectively.

Appeals &c. to the Superiour Court already taken out for *Essex* and *York* to be returned at the altered Time.

And be it further enacted, That all Appeals, Writs, Recognizances, Warrants, and other Processess already issued taken or depending in the said County of *Barnstable*, which were to have been returned or proceeded upon at the Time heretofore appointed by Law for holding the said Court of General Sessions of the Peace and Inferiour Court of Common Pleas at *Barnstable* on the last Tuesday of *June*, shall be valid and stand good to all Intents and Purposes in the Law, and shall be returned and proceeded on at the Time appointed by this Act for holding said Court of General Sessions of the Peace and Inferiour Court of Common Pleas on the third Tuesday of *September* next.

Writs Appeals &c. already issued for the Inferiour Court for *Barnstable* to be proceeded on in the next Term.

And be it further enacted, That all Appeals, Writs, Recognizances, Warrants and other Processess already issued, taken or depending in the said County of *York*, which were to have been returned or proceeded on at the Time heretofore appointed by Law for holding the said Court of General Sessions of the Peace and Inferiour Court of Common Pleas at *York* on the first Tuesday of *July*, shall be valid and stand good to all Intents and Purposes in the Law, and shall be returned and proceeded on at the Time appointed by this Act for holding said Court of General Sessions of the Peace and Inferiour Court of Common Pleas on the second Tuesday of *July* next.

The like for the Inferiour Court in *York*.

C H A P. VI.

An Act in further Addition to the Act for Limitation of Actions, and for avoiding Suits in Law, where the Matter is of long Standing. 13 G. 2. ca. 3.

WHEREAS by a Law of this Province, Intituled An Act in further Addition to the Act for the Limitation of Actions and for avoiding Suits at Law where the Matter is of long Standing, made and passed in the twenty-fifth Year of his present Majesty's Reign, the Time

A a 2.

limited

limited for commencing all Actions of Account and upon the Case, excepting such as are excepted in another Act Intituled An Act in Addition to and for the Explanation of an Act Intituled An Act for the Limitation of Actions and avoiding Suits at Law where the Matter is of long Standing, made and passed in the twenty-second Year of his present Majesty's Reign, will expire in September next : And whereas it is almost impracticable to have such Accounts and Actions settled within the Time now limited by Law for that Purpose :

Time continued for commencing Actions upon the Case Notes of Hand and Book Accounts.

Be it therefore enacted by the Governour, Council and House of Representatives, That the Time for commencing of Actions of the Case, upon Notes of Hand, or upon Book Accounts, limited by the said Act of the twenty-second, or by said Act made in the twenty fifth Year of his present Majesty's Reign, shall be and is hereby extended to the last Day of *March*, which will be in the Year of our Lord One Thousand seven Hundred and fifty-six ; and no Suit hereafter to be brought in such Cases shall be barred, if commenced before the Expiration of said Term.

This Act to be read in Town Meeting.

And

At the Sessions of the Peace.

And that this Law may be more generally known :

Be it further enacted, That the Clerk of every Town and District within this Province shall read or cause the same to be read in their respective Towns and Districts, at their Anniversary Meetings in *March* and *May* annually ; And the Justices of the several Courts of Common Pleas within the respective Counties, shall cause the same to be publicly read at the opening of their Courts from Time to Time after the Publication of this Act, and until the last Day of *March* One Thousand seven Hundred and fifty six.

C H A P. VII.

An Act to enable the Justices of the Court of General Sessions of the Peace at their several Sessions in the County of *Dukes-County*, more effectually to regulate and keep up a constant Ferry from *Dukes-County* to *Falmouth* in the County of *Barnstable*.

Preamble.

WHEREAS there is Provision already made by Law for the Justices in their Quarter Sessions throughout this Province to Licence Persons to keep Ferries, and state the Fairs or Prices of each Ferry both for Man and Beast, and to take Bond of each Ferry-man &c. but no Provision is made by Law to enable the Justices in their Sessions to lay a Tax on any County for the upholding and maintaining of Ferries, either by building Boats, Wharves, Ways &c. where no particular Person or Persons will be at the Cost thereof ; By Means whereof the said County of *Dukes-County* is wholly destitute of a Ferry from said County (which is an Island) to the Main Land, whereby many Inconveniencies daily happen to those that have Occasion to go to and from said County :

Quarter Sessions in *Dukes-County*, to assess the Inhabitants for keeping a Ferry.

Be it therefore enacted by the Governour, Council and House of Representatives, That the Justices of the Court of General Sessions of the Peace at any of their Sessions hereafter to be held in and for said County of *Dukes-County*, are hereby enabled and directed to raise Monies and to assess the Inhabitants of said County of *Dukes-County* and their Estates, as well for the building of Ferry-Boats, making and maintaining suitable Wharves and Ways for Ferry-Ways for the Convenience of keeping a Ferry in said County, in as full and ample a Manner as the Justices in said Quarter Sessions are by Law already enabled to do for defraying the necessary Repairs of Bridges, Prisons, the Maintenance of poor Prisoners, and all other proper County Charges, and under the same Regulations and Restrictions.

An Act;

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* in the County of *Suffolk*, upon Wednesday the twenty-ninth Day of *May*, 1754.

C H A P. VIII.

An Act for empowering the Corporation of *Harvard College* in certain Cases to alienate Lands or other Real Estate, and to make Sale of a Farm in *Billerica*.

WHEREAS the President and Fellows of Harvard-College, by Virtue of the Charter of Incorporation granted them by the General Court of the late Colony of the *Massachusetts*, in the Year 1650, are impowred to purchase and acquire to themselves, or take and receive upon free Gift or Donation any Lands, Tenements or Hereditaments, not exceeding the Value of Five Hundred Pounds per Annum; but no Power is given them by the said Charter to alienate any Lands or other Real Estate whatsoever; which in some Cases may be necessary for promoting the good Ends designed in their Incorporation: Preamble.

Be it therefore enacted by the Governour, Council and House of Representatives, That where the President and Fellows of *Harvard-College* are or shall become seized of any Lands, Tenements or Hereditaments by Virtue of a Judgment recovered on any Mortgage, or by Virtue of an Execution for the Satisfaction of a Judgment in any Personal Action (the Time allowed by Law for Redemption being expired) it may and shall be lawful for the said President and Fellows, and they are hereby authorized and impowred, with the Advice and Consent of the Overseers of said College, to make Sale of such Lands, Tenements and Hereditaments, or any Part thereof, and to execute Deeds effectual in Law for conveying the same, the Monies arising by such Sales to be applied to the Uses in the said Charter mentioned, and to no other Use or Purpose whatsoever. President and Fellows of Harvard College impowred to make Sale of Lands.

And whereas it hath been represented to this Court, that it would be for the Interest of the said College, if Sale were made of a certain Farm or Tract of Land belonging thereto, which is situated in that Part of the Town of *Bellerica* called *Shawshin*:

Be it therefore enacted, That it shall be lawful for the President and Fellows of said College to make Sale of the said Farm or Tract of Land, and they are hereby authorized to give and execute a good and sufficient Deed or Deeds of Conveyance of the same; the Proceeds of such Sale to be vested in other Real Estate, which they may judge will be of greater Advantage to that Society. President &c. to make Sale of a Farm in Billerica.

Grants and Donations.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-ninth Day of *May* 1754, And continued by Adjournment unto Thursday the seventeenth Day of *October* following.

C H A P. IX.

An Act for the better securing and rendering more effectual Grants and Donations to pious and charitable Uses, and for the better Support and Maintenance of Ministers of the Gospel, and defreying other Charges relating to the publick Worship.

Preamble.

WHEREAS many Grants and Donations have heretofore been made by sundry well-disposed Persons, in and by such Expressions and Terms as plainly show it was the Intent and Expectation of such Grantors and Donors, that their several Grants and Donations should take Effect so as that the Estates granted should go in Succession: But Doubts have arisen in what Cases such Donations and Grants may operate, so as to go in Succession:

For ascertaining whereof:

Deacons and Church Wardens of Protestant Churches to take in Succession Grants and Donations &c.

Be it enacted by the Governour, Council and House of Representatives, That the Deacons of all the several Protestant Churches, not being Episcopal Churches, and the Church Wardens of the several Episcopal Churches, are and shall be deemed so far Bodies Corporate, as to take in Succession all Grants and Donations whether Real or Personal, made either to their several Churches, the Poor of their Churches, or to them and their Successors, and to sue and defend in all Actions touching the same; and wherever the Ministers, Elders or Vestry shall in such Original Grants or Donations have been joined with such Deacons or Church Wardens as Donces or Grantees in Succession, in such Cases such Officers and their Successors, together with the Deacons or Church Wardens, shall be deemed the Corporation for such Purposes as aforesaid. And the Minister or Ministers of the several Protestant Churches of whatever Denomination, are and shall be deemed capable of taking in Succession any Parsonage Land, or Lands granted to the Minister and his Successors, or to the Use of the Ministers, and of suing and defending all Actions touching the same; Saving that nothing in this Act shall be construed to make void any final Judgment of any Court of Common Law or Judge of Probate; saving also, that no Alienation of any Lands belonging to Churches hereafter made by the Deacons without the Consent of the Church or a Committee of the Church for that Purpose appointed, or by Church Wardens without the Consent of the Vestry, shall be sufficient to pass the same. And that no Alienation hereafter made by Ministers of Lands by them held in Succession shall be valid any longer than during such Alienors continuing Ministers, unless such Ministers be Ministers of particular Towns, Districts, or Precincts, and make such Alienation with the Consent of such Towns, Districts or Precincts, or unless such Ministers so aliening be Ministers of Episcopal Churches, and the same be done with the Consent of the Vestry. And the several Churches in this Province not being Episcopal Churches, are hereby impowred to choose a Committee, to call the Deacons or other Church Officers to an Account, and if need be, commence and prosecute any Suits touching the same, and also to advise and assist such Deacons in the Administration of the Affairs aforesaid.

Ministers to take in Succession Parsonage Lands &c.

No Alienation to be made without Consent of the Church.

Limitation of the Income of Church Grants.

And be it further enacted, That the Income of the Grants made or to be made to any one such Body Politick for pious and charitable Uses, shall not exceed the Sum of *Three Hundred Pounds* per Annum; and also that all such Donations

Marriage and Divorce.

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Donations hereafter made by Deed, which ſhall not be recorded in the Register's Office in the County where the Lands lie three Calendar Months before the Death of the Donor ; and all ſuch Bequeſts or Deviſes which ſhall not be made before the laſt Sickneſs of the Perſon making the ſame, or at leaſt three Months before the Death of the Teſtator, ſhall be utterly void and of no Effect : any Thing in this Act contained to the contrary notwithstanding.

And whereas the ſeveral Congregations in the Town of Boſton, and ſome others under the like Circumſtances, are not by Law enabled by Vote to raiſe Money for the Support of the Miniſtry and publick Worſhip among them :

Be it further enacted, That in every ſuch Caſe where Moneys cannot be raiſed as aforeſaid for the Support of the Miniſtry and defraying the other Charges neceſſary for the upholding and maintaining of publick Worſhip, and Repairs of the Houſe in which the ſame is performed, by Virtue of any Proviſion in the Laws already made for that Purpoſe ; the Proprietors of the Pews or Perſons to whom they are allotted in the ſeveral Houſes for publick Worſhip, may, if they think fit, at a publick Meeting to be called for that Purpoſe by the Proprietors Clerk, Deacons or Church Wardens, and Notice thereof immediately after divine Service given ten Days at leaſt before ſaid Meeting, cauſe the ſeveral Pews in ſuch Houſes to be valued according to the Convenience and Situation thereof, and a new Eſtimate to be put upon ſaid Pews from Time to Time, as ſhall be found neceſſary, and a Tax to be laid upon each Pew according to the Convenience and Situation thereof as aforeſaid ; provided the ſaid Tax ſhall not exceed *two Shillings* per Week on any one Pew : the Money ſo raiſed to be applied towards the Support of the Miniſtry and other Charges neceſſary for maintaining publick Worſhip or Repairs of the Houſe ; and that the ſaid Proprietors may at a Meeting to be called as aforeſaid, chooſe a Clerk and Treafurer, and likewiſe appoint ſome ſuitable Perſons to demand and receive the ſeveral Sums ſo aſſeſſed of the Owners of ſuch Pews : And in Caſe of Denial on ſuch Demand or Neglect of Payment three Months after ſuch Demand, to ſell the ſame, and after deducting ſuch Taxes and Coſts to return the Surplus to the Owners.

Pews may be taxed for the Charge of the public Worſhip, &c.

Proviſo, the Tax exceed not 2 s. per Week.

Proprietors to choſe a Clerk, Treafurer, &c.

Provided nevertheleſs, That when the Owner of any Pew ſhall make a Tender of the ſame to the Proprietors or to their Committee at the Valuation which ſhall have been laſt put thereon, and they ſhall reſuſe or neglect to accept the ſame, no Sum ſhall be deducted out of the Sale of ſaid Pew, but ſuch only as ſhall have become due before the making of ſuch Tender.

Proviſo.

C H A P. X.

An Act declaring in what Manner the Decrees and Orders of the Governour and Council in Controverſies concerning Marriage and Divorce ſhall be carried into Execution.

WHEREAS in and by an Act of this Province made and paſſ'd in the fourth Year of the Reign of King William and Queen Mary, it is among other Things Enacted and Declared, That all Controverſies concerning Marriage and Divorce, ſhall be heard and determined by the Governour and Council, but no expreſs Proviſion has been made by the Laws of this Province for carrying the Decrees and Orders of the Governour and Council in ſuch Caſes into Execution :

Preamble.

Be it therefore enacted by the Governour, Council and Houſe of Representatives, That if any Perſon ſhall reſuſe or neglect to obſerve and conform to any legal Degree or Order, whether interlocutory or final, made, or that ſhall hereafter be made by the Governour and Council in any Controverſy concerning Marriage and Divorce, every ſuch Perſon ſhall be and is hereby declared liable to ſuffer the Pains of Imprisonment, and it ſhall and may be lawful for the Secretary of the Province to iſſue a Warrant under his Hand and Seal by

Perſons reſuſing to conform to any legal Decree of Governour and Council liable to be imprifoned.

by Order of the Governour and Council, directed to any Sheriff or his Deputy, requiring him forthwith to arrest the Body of such Person so refusing or neglecting, and him to commit unto his Majesty's Goal, there to remain without Bail or Mainprize, until he shall comply with such Decree or Order made as aforesaid.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the twenty-ninth Day of *May* 1754. And continued by sundry Prorogations unto Tuesday the twenty-fifth Day of *March* following.

C H A P. I.

An Act in further Addition to the several Laws already in Being for the more speedy finishing the *Land Bank* or *Manufactory Scheme*.

17 G. 2, ca. 3.

Preamble.

WHEREAS the Land Bank or Manufactory Scheme cannot be equitably finished, unless further Provision be made by Law for the Sale of such Real Estates of Delinquents, as are or may be taken by Execution or Warrants of Distress:

Sheriffs impowered to make Sale of forfeited Estates in the Land Bank, in Case.

Be it therefore enacted by the Governour, Council and House of Representatives, That every Sheriff, Under-Sheriff or Deputy-Sheriff, who (upon the Receipt of any Execution or Warrant of Distress issued or to be issued by the Commissioners by Law appointed to finish the said Scheme, against the Estates of any of the late Directors or Partners therein, for any Sum or Sums of Money assessed or that may be assessed on them, or either of them, or which their Estates are by Law made liable to the Payment of) hath or shall have levied such Sum or Sums on the whole or any Part of the Real Estate of any such Director or Partner, and shall have obtained from the Register of Deeds in the County where such Lands lie, a Certificate that upon a careful Search made in the Registry of Deeds there, it doth not appear that any Conveyance or Alienation of such Estate hath been made by such Director or Partner, and entered or lodged in such Registry at any Time before the Month of *October* Anno Domini One Thousand seven Hundred and forty three (at which Time those Estates were by Law subjected to the Payment of what should appear to be due therefrom to the Company of Partners) such Sheriff or Under-Sheriff or Deputy shall be and hereby is authorized and impowered (after the Time allowed by Law for the Redemption of such Estates shall be expired) to make Sale thereof, and to make, sign and execute (in due Form of Law) a Deed or Deeds of Conveyance thereof with Warranty; which Instrument or Instruments of Conveyance shall make a good Title to the Purchaser, his Heirs and Assigns for ever.

Proviso in Cases where the Estate is in other Hands besides the Directors and Partners.

Provided always, and be it further enacted, That any Person or Persons (other than the Director or Partner) whose Estate shall be taken and sold as aforesaid, or his Heirs, Assigns or Devisees claiming any Right in or to such Estate) may (any Thing in this Act before-mentioned notwithstanding) bring his or their Action for the Recovery thereof, provided the same be commenced and pursued within one Year from the Time of making such Conveyance; and every Action of Trespass, Ejectment or other Action against the Sheriff or other Officer for his Doings therein, or that shall be brought to Evict or in any wise to molest the Purchaser his Heirs or Assigns, in the peaceable Possession of the Estate (sold him as aforesaid) at any Time after the Expiration of said Term, shall be utterly barr'd; saving such Action or Actions as may be brought by any Person

or

Proceedings of Court confirm'd.

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or Perſons who at the Time of ſuch Conveyance ſhall be and ſhall continue out of this Province till after the Expiration of ſaid Term, or, that ſhall be brought by any Perſon who during that Time ſhall be under ſome legal Incapacity of bringing his Action; in either of which Caſes ſuch Action may be brought within one Year from and after the Removal of ſuch Impediment, and not afterwards.

And be it further enacted, That the ſeveral ſurviving Directors and Partners in ſaid Scheme and their Eſtates, and the Eſtates of ſuch of them as are deceased, ſhall be and they are hereby ſubjected and made liable to answer and refund all Coſt and Charges that may ariſe in Conſequence of any ſuch Conveyance; ſuch Charges to be aſſeſſed on them by the ſaid Commiſſioners, and to be raiſed and collected in Manner and Proportion as ſet forth in the Act made in the twenty fourth Year of his preſent Maſteſty's Reign Intituled *An Act in Addition to the ſeveral Laws already in Being for the more ſpeedy finiſhing the Land Bank or Manufactory Scheme.*

The Eſtates of ſurviving and deceased Directors and Partners made liable to answer Charges.

And whereas divers of the Mortgages given by the Partners (at their firſt Entrance on ſaid Scheme) to ſecure the Payment of their Dues to the Company of Partners are not as yet diſcharged by the Commiſſioners, nor ſuch Dues to the Company paid: And whereas the original Mortgages (lodged in the Court-Houſe in Boſton) were conſumed by Fire:

Preamble.

Be it therefore further enacted, That upon Suit brought, or that may be commenced upon any ſuch Mortgage remaining not diſcharged, an attested Copy of the Record thereof in the Registry of Deeds in the County where the Eſtate ſo Mortgaged lies, ſhall be deemed good and ſufficient to all Intents and Purpoſes as if the original Mortgage was produced in Court on the Trial.

Attested Copy of the Mortgages to be valid as the Original.

Provided, that nothing in this or any former Act ſhall be conſtrued or underſtood to abridge the ſaid Commiſſioners of the Power formerly given them by the Laws of this Province, by due Courſe of Law, in ſuch Caſes as they ſhall judge may require it, to recover of any Director or Partner what became due from him to the Company of Partners by Force of any former Aſſeſſment or otherwiſe, or of making and executing Deeds of Conveyance of ſuch Eſtates as have been or may be taken by Execution in Satisfaction of ſuch Dues.

Proviſo that the Commiſſioners Power be not invalidated.

An Act,

Paſſed by the Great and General Court or Aſſembly of His Maſteſty's Province of the *Maſſachuſetts-Bay* in *New-England*; Begun and held at *Boſton*, upon Wednesday the twenty-eighth Day of *May*, 1755. And continued by Prorogations to Wednesday the twenty-fourth Day of *September* following, and then met.

C H A P. I.

An Act for confirming the Proceedings of the General Aſſembly convened on the fifth of *September*, Anno Domini 1755.

WHEREAS upon Advices of great Importance received from the Troops gone upon an Expedition againſt Crown-Point, His Honour the Lieutenant Governour and Commander in Chief, and His Maſteſty's Council, judged it abſolutely neceſſary that the General Aſſembly which ſtood Prorogued to the twenty-fourth Day of *September* Inſtant, ſhould be ſooner convened, and the ſame was accordingly convened (by his Honour's Proclamation) and held on the fifth of the ſame Month, and from Day to Day continued until the ninth Inſtant, during which Time divers Matters of publick Importance were tranſacted; and whereas ſome Doubt may poſſibly ariſe touching the Legality of the Proceedings of that Aſſembly, held before the Time to which the ſame ſtood Prorogued:

Preamble.

THEREFORE

THEREFORE for the Preventing or Removing all Doubts and Disputes touching the same :

All Proceed-
ings of the late
Convention of
the General
Court con-
firmed.

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That all Votes, Orders, Laws and other Matters, made, passed or transacted by the General Assembly convened and held on the fifth of this Instant *September*, and which was held until the ninth Day of the same, be and they are hereby established and confirmed, and shall to all Intents and Purposes be deemed valid and effectual in the Law, as if the Great and General Court or Assembly had stood Prorogued to the said fifth Day of *September*, and had been then held ; and the same Votes, Orders, Laws and other Matters had been pass'd or transacted by the said Great and General Court during such their Session.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston* upon Wednesday the twenty-eighth Day of *May*, 1755. And continued by sundry Prorogations and Adjournment to Wednesday the fourteenth Day of *January* following, and then met.

C H A P. II.

An Act to prevent Farmers and Collectors of the Duties of Excise, being Members of the General Court or Assembly of this Province.

Preamble.

WHEREAS many Inconveniencies may arise to this Government by Persons concerned in farming or collecting the Duties of Excise, being Members of the General Court or Assembly :

Purchasers or
Collectors of
Excise not to
be Members
of the Court.

Be it enacted by the Governour, Council and House of Representatives, That no Person who shall either directly or indirectly be a Purchaser or Collector of the Duties of Excise laid by the Act passed this present Session of the General Court, or which shall be laid by any future Act, or who shall directly or indirectly be a Sharer with any such Purchaser or Collector in such Duties, shall be allowed to be a Member of the Council or House of Representatives of this Province during the Term of his being so concerned.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* ; Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1756. And continued by Prorogations and Adjournment to the fifth Day of *October* following, and then met.

C H A P. I.

An Act in Addition to and for Explanation of an Act made in the fourth Year of his Majesty's Reign, Intituled *An Act directing how Rates and Taxes to be granted by the General Assembly, as also County Town and Precinct Rates shall be assessed and collected.*

G. 2. ca. 1.

Preamble.

WHEREAS in and by an Act made in the fourth Year of his present Majesty's Reign, Intituled *An Act directing how Rates and Taxes to be granted by the General Assembly, as also County, Town and Precinct Rates shall be assessed and collected, It is among other Things provided,*

provided, "That two or more Assessors shall have Power by Warrant under their Hands and Seals, to commit to the common Goal, such Persons as being duly assessed shall refuse or neglect to pay the Sums so assessed by the Space of twelve Days after Demand thereof, where no sufficient Distress can or may be found, whereby the same may be levied : " And whereas a Doubt hath arisen, Whether by the Assessors so impowered be meant and intended the Assessors for the Time being, or the Assessors by whom the Persons to be committed were assessed :

It is therefore enacted by the Lieutenant Governor, Council and House of Representatives, That by the Assessors so empowered in and by the Act aforesaid, the Assessors for the Time being, and they only, are meant and intended; and that the said Act shall be and always ought to have been so understood.

And be it further enacted, That any Person apprehending himself over-rated, and applying to the Assessors for, the Time being for Relief, shall upon their Refusal to ease him, have Liberty to make Application to the Court of General Sessions of the Peace to be held within and for the same County within which the Assessment was made, next after such Refusal, the Justices of which Court are hereby authorized to grant him Relief in such Manner as is directed in and by the Act aforesaid.

And be it further enacted, That the Warrant for Commitment to be granted by the Assessors as aforesaid, shall be in the Form following :

ff. To *A. B.* one of the Constables (Collectors) of the Town of *C.* in the County of *S.* Greeting.

Whereas Application has been made to us the Subscribers, Assessors for the said Town of C. by the said A. B. one of the Constables (or Collectors) of said Town of C. in said County that H. I. of said Town of C. is assessed to the Province Tax in the Rate-Bill committed to him the said A. B. to collect as Constable (Collector) for the Year the Sum of And altho' the said Tax has been demanded of the said H. I. yet he neglects and refuses to pay and satisfy the same, and there being no Estate of the said H. I. to be found whereon to levy the same: These are therefore in his Majesty's Name to require you the said A. B. to take into safe Custody the Body of the said H. I. and him commit to the common Goal of the said County of S. there to remain until he the said H. I. shall pay and satisfy the above Sums with all necessary Charges, or be discharged by due Course of Law.

Given under our Hands and Seals at C. this Day of in the
Year of his Majesty's Reign, *Annoque Domini,*

Assessors of the
Town of C.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and Held at *Boston*, upon Wednesday the twenty-sixth Day of *May* 1756, And continued by sundry Prorogations and Adjournment to the thirtieth Day of *March* following, and then met.

CHAP. II.

An Act for Regulating the Hospital on *Rainsford's-Island*,
and further providing in Case of Sickness.

WHEREAS a good and convenient House hath been provided at the Charge of the Province on the Island called Rainsford's-Island, for the Reception of such Persons as shall be visited with any contagious Sickness: Preamble:

Be it therefore enacted by the Council and House of Representatives, That Enquiry shall be made by the Officer or other Person on Duty

B b b

at

Inquiry to be made at the Castle respecting infectious Vessels.

Select Men to certify the Safety of Vessels coming into the Harbour,

Penalty for Master's Offence

Leave to be had of the Select-Men for Landing Passengers or Goods.

Forfeiture for Contempt by the Master and others.

Justices of the Peace to order infectious Vessels or Persons to the Hospital.

at *Castle-William*, of every Vessel coming from Sea, and passing by said Castle, whether they are all well on board, and also whether any infectious Sickneſs has been on board, ſince they left the Port from whence they laſt came; and if any Vessel inquired of as aforeſaid ſhall have any Sickneſs on board, and upon further Inquiry the ſame ſhall appear to be the Plague, Small-Pox, or any other malignant infectious Diſtemper, in ſuch Caſe Order ſhall be given to the Maſter or Commander of ſuch Vessel, forthwith to go down with his Vessel, and Anchor as near the Hospital at *Rainsford's-Island* as conveniently may be, or if any Vessel enquired of as aforeſaid, ſhall have had any infectious Sickneſs on board ſince they left the Port from whence they laſt came, in ſuch Caſe Orders ſhall be given to the Maſter or Commander of ſuch Vessel immediately to Anchor, and to remain at Anchor until a Certificate ſhall be obtained from the major Part of the Select-Men of the Town of *Boston*, that they are of Opinion ſuch Vessel may come up to Town, without Danger to the Inhabitants, or until the ſaid Maſter ſhall receive Orders from the ſaid Select-Men to go with his Vessel and Anchor near the Hospital aforeſaid; and in Caſe any Maſter or Commander ſhall by himſelf or People on Board, make falſe Answer when hail'd by the Caſtle, or (after Orders given as aforeſaid) ſhall neglect or reſuſe to Anchor near the Caſtle as aforeſaid, or come on Shoar, or ſuffer any Paſſengers or Perſons belonging to the Vessel to come on Shoar, or any Goods to be taken out before the Vessel ſhall have Anchor'd, or without Liberty from the Select-Men as aforeſaid; or in Caſe any Maſter or Commander order'd to Anchor near the Hospital aforeſaid, ſhall neglect or reſuſe ſo to do; in every ſuch Caſe, every Maſter or Commander ſo offending, ſhall forfeit and pay the Sum of *One Hundred Pounds*, or ſuffer ſix Months Imprisonment.

And be it further enacted, That upon Application made to the Select-Men of the Town of *Boston* by any Maſter or Commander of any Vessel at Anchor near the Hospital as aforeſaid, the ſaid Select-Men are hereby impowered to permit ſuch Paſſengers, Goods or Lading as they ſhall judge free from Infection to come on Shore, or to be taken out and diſpoſed of as the Owners ſhall ſee meet: And ſuch Paſſengers and Goods as ſhall not be permitted as aforeſaid, ſhall remain on Board, or be landed on ſaid Island, or if any Maſter or immediate Commander of any ſuch Vessel for the Time being, ſhall come on Shoar, or ſuffer any of his People or Paſſengers to come on Shoar, or any Boats to come on Board, or ſuffer any Goods to be taken out of his Vessel, unleſs permitted as aforeſaid, or ſhall come up with his Vessel, until by a Certificate under the Hands of the Select-Men or major Part of them as aforeſaid, it ſhall appear to the Captain General that ſaid Vessel Company and Goods are clear of Infection, and the Orders for ſtopping and detaining the ſame be removed and taken off, he ſhall for every ſuch Offence forfeit the Sum of *Fifty Pounds*; and in Caſe he be not able to pay that Sum he ſhall ſuffer three Months Imprisonment; and if any Sailors or Paſſengers coming in ſaid Vessel, ſhall without the Knowledge or Conſent of the Maſter preſume to come on Shoar, or up above the ſaid Caſtle, or if any Perſon from Town or Country ſhall knowingly preſume to go on Board ſuch Vessel, or go to the aforeſaid Houſe or Island in Time of Infection there, without Leave as aforeſaid, or if any Perſon put ſick into the ſaid Houſe, or ſent there on Suſpicion of being infected, ſhall preſume to go off the Island without Leave as aforeſaid, every Perſon offending in any of the Particulars above-mentioned, ſhall forfeit the Sum of *Forty Pounds*; and in Caſe any Perſon be not able to pay the ſaid Sum, he ſhall ſuffer two Months Imprisonment. All the before-mentioned Fines to be ſued for and recovered by the Select-Men of the Town of *Boston* for the Time being, one Moiety thereof to be to his Maſteſty for the Uſe of this Government, the other Moiety to the Informer.

And be it further enacted, That when and ſo often as any Ship or other Vessel wherein any Infection or infectious Sickneſs hath lately been, ſhall come to any Port or Harbour within this Province; or when and ſo often as any Perſon or Perſons belonging to or that may either by Sea or Land come into any Town

Superiour Courts.

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Town or Place near the publick Hospital within this Province shall be visited, or who lately before may have been visited with any infectious Sickness; two of the Justices of the Peace or Select-Men of such Place, be and hereby are empowered immediately to order the said Vessel and sick Persons to the Province Hospital or House aforesaid, there to be taken Care of according to the Directions of this Act; and where any such Ship Vessel or Persons cannot without great Inconvenience and Damage be ordered to the aforesaid House or Hospital, in every such Case the Rules and Directions are to be observed which are already made in and by an Act pass'd in the 13th Year of the Reign of his late Majesty King *William the Third*, Intituled. *An Act providing in Case of Sickness*.

And be it further enacted, That if any Master, Seaman or Passenger belonging to any Ship on board which any Infection is or hath lately been or is suspected to have lately been, or coming from any Port where any infectious mortal Distemper prevails, shall refuse to make Answer on Oath to such Questions as may be asked him or them by the Select-Men of the Town (who are hereby empowered to administer the same) to which such Ship shall come, relating to such Infection, such Master, Seaman or Passenger, shall forfeit the Sum of *Fifty Pounds*; and in Case he be not able to pay said Sum he shall suffer six Months Imprisonment; the above-mentioned Fine to be sued for and recovered by the Select-Men of the respective Towns where the Offence shall be committed; one Moiety thereof to be to his Majesty for the Use of this Government, and the other Moiety to the Informer; and where any Person shall be convicted of any Offence against this Act, and suffer the Pains of Imprisonment, and shall be unable to pay the Costs of Prosecution, such Costs shall be paid by the several Towns to which such Persons respectively belong, or if not Inhabitants shall be allowed and paid out of the Province Treasury, and the Select-Men of *Boston* are directed and empowered to provide Nurses, Assistance and other Necessaries for the Comfort and Relief of such sick Persons sent to said Hospital as aforesaid, the Charge thereof to be born by the said Persons themselves, if able, or if Poor and Indigent, by the Towns to which they respectively belong, or if not Inhabitants then at the immediate Charge of the Province.

Penalty for not answering on Oath referring to Infection.

Select Men directed and empowered in providing Nurse Attendance &c.

C H A P. III.

An Act appointing the Times for holding the Superiour Courts of Judicature &c. in the Counties of *Plymouth* and *Barnstable* for the present Year.

WHEREAS in and by a late Act Intituled, An Act for altering the Times appointed for holding the Superiour Court of Judicature &c. in the Counties of *Plymouth*, *Bristol*, and *Barnstable*; it is provided, that his Majesty's Superiour Court of Judicature, Court of Assize and General Goal Delivery shall for the future be held at *Plymouth* within and for the County of *Plymouth*, on the last Tuesday of April annually; and that the said Court shall be held at *Barnstable* for the Counties of *Barnstable* and *Dukes County* on the first Tuesday of May annually: And whereas since the passing said Act the Administration of Government hath by the Death of the late Lieutenant Governour devolved on his Majesty's Council; whereby a general Attendance of the Members of said Council, three of whom are Justices of the said Court, is rendred more especially requisite at this Time:

Preamble.

Be it therefore enacted, That the said Court for the present Year shall be held at *Plymouth* within and for the County of *Plymouth* on the third Tuesday of July next: And at *Barnstable* for the Counties of *Barnstable* and *Dukes County* on the fourth Tuesday of July next.

Times for holding *Plymouth* & *Barnstable* Superior Courts.

And be it further enacted, That all Writs and other Proceffes already issued returnable to the said Court, shall be returned, and all Matters depending at the said Court in either of said Counties shall be proceeded on, at the Days respectively appointed by this Act for holding the same: And all Officers and other Persons concerned are required to conform themselves accordingly.

Writs and other Proceffes &c.

B b b 2

A N

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1757. And continued by Prorogations to Wednesday the twenty-third Day of *November* following, and then met.

C H A P. IV.

An Act in Addition an Act Intituled *An Act for Regulating the Hospital on Rainsford's-Island, and further providing in Case of Sickness.*

Preamble.

WHEREAS in and by an Act Intituled, An Act for Regulating the Hospital on *Rainsford's-Island*, and further providing in Case of Sickness, it is provided, That when and so often as any Ship or other Vessel, wherein any Infection or infectious Sickness hath lately been, shall come to any Port or Harbour within this Province; or when and so often as any Person or Persons, belonging to or that may either by Sea or Land, come into any Town or Place near the pullick Hospital within this Province, shall be visited, or who lately before may have been visited with any infectious Sickness; two of the Justices of the Peace or Select-men of such Place, be and hereby are empowered immediately to order the said Vessel and sick Persons to the Province Hospital or House aforesaid, there to be taken Care of.

But no Penalty is annexed to the Breach of the afore-recited Paragraph of said Act: Wherefore.

Justices of the Peace &c. to order infectious Vessels or Persons to the Hospital.

Penalty for Disobedience to the Act.

It is enacted by the Governour, Council and House of Representatives, That when any Ship or other Vessel; wherein any infectious Sickness is, or hath lately been, shall come to any Port or Harbour in this Province, and either two Justices or the Select-Men of the Place shall order the said Vessel to the Province Hospital; and the Master or Mariners of such Vessel, shall refuse or delay by the Space of six Hours after said Order, given to said Master or either of the Owners of said Vessel, or of the Factors of either of said Owners, to come to sail, if Wind and Weather permit, in order to proceed to said Hospital, the Master of said Vessel shall forfeit and pay the Sum of *One Hundred Pounds*, and suffer six Months Imprisonment; one half of said Fine to be to the Informer or Prosecutor, and the other half to the Poor of the Town or District, to which such Port or Harbour belongs; the Offender to be prosecuted in any Court of Justice proper to try the same.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the twenty-fifth Day of *May*, 1757. And continued by Prorogations to Thursday the second Day of *March* following, and then met.

C H A P. I.

An Act to prevent Bribery and Corruption.

Persons who shall give or engage any Sum of Money &c for any Office or Place of Trust liable to a Penalty.

IT is enacted by the Governour, Council and House of Representatives, That if any Person shall directly or indirectly give, or engage to pay any Sum of Money, or other valuable Consideration to another, in order to induce such other Person to procure for him by his Interest, Influence

Hingham Meadows and Flat-Ground.

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Influence or any other Means whatsoever, any Office or Place of Trust within this Government, and be thereof convicted, shall forfeit a Sum not exceeding *One Hundred Pounds*, nor less than *Twenty Pounds*, at the Discretion of the Court which shall have Cognizance of the same, and be rendered for ever after incapable of sustaining any Office or Place of Trust within this Province.

And be it further enacted, That if any Person shall receive of another any Sum of Money, or other valuable Consideration as a Reward for procuring, or to procure any Office or Place of Trust within this Government, for any other Person, and be thereof convicted, shall forfeit a Sum not exceeding *One Hundred Pounds*, nor less than *Twenty Pounds*, at the Discretion of the Court which shall have Cognizance of the same. And if such Offender be in any such Office, he shall on the Conviction be disabled from holding the same, and be for ever after incapable of sustaining any Office or Place of Trust within this Province.

Persons who shall receive any Sum of Money &c for procuring any Office or Place of Trust liable to a Penalty.

And for the more easy Conviction of such Offenders :

Be it further enacted, That if either of the Parties offending as aforesaid, shall give Information upon Oath against the other offending Party, and shall duly prosecute said Information, such Informer shall be freed from every the Penalties aforesaid.

Persons informing freed from Penalties.

And all Offences against this Act, shall be heard, tried and determined before the Superiour Court of Judicature, Court of Assize and General Goal Delivery; and all pecuniary Penalties accruing thereby, shall be one Third thereof to the Informer, and the other two Thirds to the Province.

Offences to be tried before the Court of Assize.

C H A P. II.

An Act for Regulating the Proprietors of the Meadow and Flat-Ground within the Cove called the *Little Harbour* in the Township of *Hingham*, in the County of *Suffolk*.

WHEREAS the Proprietors of the Meadow and Flat Ground within the Cove called the *Little Harbour* in the Township of *Hingham*, in the County of *Suffolk*, in the Year One Thousand seven Hundred and forty, at a great Expence erected a Dam at the Mouth of said Harbour, by Means of which the same yearly produces a considerable Quantity of Thatch; but that a growing Charge arises from Time to Time in keeping the said Dam in Repair, and that of letting in and drawing off the Water as is necessary; and that the same for Time to come may be well Regulated, and the Charge thereof equally born :

Preamble.

Be it enacted by the Governour, Council and House of Representatives, That the Proprietors aforesaid be and hereby are invested with the same Powers and Privileges of calling and regulating Meetings, and choosing proper Officers, as the Proprietors of Common and undivided Lands by Law are invested with; and by a major Vote of the Proprietors (to be collected according to their Interest may make Orders and Rules as they shall judge necessary, touching the Repairing or making any Dam or Dams, and drawing off the Water, and grant and raise any Tax or Taxes for the defraying their necessary Charges, to be assessed and levied on the several Occupants of such Meadow or Flatts, in Manner as by Law publick Taxes are to be levied.

Proprietors invested with the Powers & Priviledges of calling Meetings, &c.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the thirty-first Day of *May*, 1758. And continued by sundry Prorogations to the fourth Day of *October* following, and then met.

C H A P. I.

An Act for altering the Times appointed for holding the Courts of General Sessions of the Peace and Inferiour Courts of Common Pleas at *Plymouth*, within and for the County of *Plymouth*.

Preamble.

WHEREAS the Times appointed by Law for holding the Courts of General Sessions of the Peace and Inferiour Courts of Common Pleas at *Plymouth*, within and for the County of *Plymouth*, is found to be inconvenient :

Time of Inferiour Courts Sitting in *Plymouth* for the County of *Plymouth* altered.

Be it therefore enacted by the Governour, Council and House of Representatives, That the Times for holding the said Courts of General Sessions of the Peace and Inferiour Courts of Common Pleas at *Plymouth*, for the County of *Plymouth*, shall henceforth be on the first Tuesday of *January*, *April*, *July* and *October* annually ; and all Officers and other Persons concerned, are required to conform themselves accordingly.

All Matters depending in said Courts continued.

And be it further enacted, That all Writs, Suits, Plaints, Procceses, Appeals, Recognizances, Warrants, or other Matters or Things whatsoever, which now are, or at any Time before the said first Tuesday of *January*, shall be issued, taken or depending in the said County of *Plymouth*, which were to have been returned or proceeded on at the Time heretofore appointed by Law for holding the said Courts at *Plymouth*, shall be valid and stand good to all Intents and Purposes in the Law, and shall be returned and proceeded on at the Times appointed by this Act for holding the same.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1758. And continued by sundry Prorogations to Friday the twenty-ninth Day of *December* following, and then met.

C H A P. II.

An Act to enable Creditors to receive their just Debts out of the Effects of their absent or absconding Debtors.

Preamble.

FOR the better preventing of Frauds and Deceit too often designed and practised by ill minded Debtors, in betrusting and depositing their Goods and Effects in the Hands of others, with Intent to reserve and secure them to their own Use, and defeat their Creditors of their just Dues, absconding or withdrawing themselves out of this Province, or not being within this Province, or to be come at, and their Goods and Effects concealed so as they cannot be attached and made liable to the Payment of their Creditors by the ordinary Proccess of Law :

Absconding Debtors.

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Be it enacted by the Governour, Council and House of Representatives, That it shall and may be lawful for any Person entitled to any Action of Debt, Detinue, Account, Covenant or Case, in Trover, *Indebitatus*, *Assumpsit*, or on expresse Contract against any Person absconding or absent out of this Province, to cause the Goods and Estate of such absconding or absent Person to be attached in whose Hands or Possession soever the same are or may be found; And the attaching of any Part thereof shall secure and make the whole that is in such Persons Hands liable in the Law to Respond the Judgment to be recovered upon such Process, if so much there be, and no further, and shall be subjected to be taken in Execution for Satisfaction thereof, or so far as the Value thereof will extend, and the Person in whose Hands they are shall expose them accordingly.

Goods and Effects of absconding Debtors to be attached.

And subject to Execution.

And be it further enacted, That where no Goods or Effects of such absent or absconding Person in the Hands of his Attorney, Factor, Agent or Trustee, shall be exposed to View, or can be come at so as to be attached, it shall and may be lawful to and for any Person entitled to any of the aforesaid Actions to file a Declaration against such absent or absconding Person in the Clerk's Office of the Inferiour Court of Common Pleas in the same County where such Factor, Agent or Trustee lives, therein particularly setting forth his Debt and Damage, how and for what Cause it arises, and to cause the Attorney, Factor, Agent or Trustee of such absent or absconding Person to be served with a Summons out of the Office, annexed to the said Declaration fourteen Days before the Sitting of the Court, for his Appearance at such Court; which being duly served, and Return thereof made under the Officer's Hand, shall be sufficient in the Law to bring forward a Trial without other or further Summons, unless the Principal be an Inhabitant or hath for some Time had his Residence within this Province, in which Case a like Summons with an attested Copy of the Declaration annexed, shall also be left at his Dwelling House, Lodging or Place of his last and usual Abode fourteen Days before the Sitting of the Court; and such Attorney, Factor, Agent or Trustee upon his Desire, shall be admitted to defend the Suit on Behalf of his Principal throughout the Course of the Law, and an Impar lance shall be granted of Course at two Terms successively, that he may have an Opportunity to notify his Principal thereof, and at the third Term without special Matter alledged and allowed in Bar, Abatement or further Continuance, the Cause shall peremptorily come to Trial, and if Judgment be rendered for the Plaintiff, all the Goods, Effects or Credits of such absent or absconding Person in the Hands of such Attorney, Factor, Agent or Trustee, which were in his Hands at the Time of his being served with the Summons and Declaration aforesaid, to the Value of such Judgment (if so much there be) shall be liable and subjected to the Execution granted upon such Judgment for or towards satisfying the same, and from the Time of serving the Summons as aforesaid, shall be liable and secured in the Law in his Hands to answer the same, and may not be otherwise disposed of or converted.

Agent, &c. of an absent Debtor to be summoned to Court in Case no Effects appear.

Trial thereupon to be had.

Two Imparlances to be granted.

Goods in such Agents Hands subject to Execution on a Judgment.

Provided nevertheless, and be it enacted, That if upon Summons being served as aforesaid, the supposed Attorney, Factor, Agent or Trustee, shall come into Court at the first Term, and declare that he had not in his Hands at the Time of the Service of such Summons, any Goods, Effects or Credits whatsoever of the absent or absconding Person, and shall submit to an Examination upon Oath respecting the same; and if upon such Examination it shall appear to the Satisfaction of the Justices of the Court that he had not any Goods, Effects or Credits whatsoever of the absent or absconding Person in his Hands at the Time of his being summoned as aforesaid, then in every such Case the Plaintiff shall become Nonsuit, and shall pay to him who was summoned as Attorney, Factor, Agent or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court.

Proviso.

And be it further enacted, That if any Attorney, Factor, Agent or Trustee, being served with Summons and Declaration as aforesaid, shall not appear at the first Term, and then either acknowledge himself to have had in his Hands some Goods

Agents not appearing at the first Term &c liable to pay Costs.

Goods, Effects or Credits of the absent or absconding Person at the Time of the Service aforesaid, and thereupon pray that he may be admitted to defend the Action, or otherwise submit himself to an Examination upon Oath as aforesaid, he shall be liable to pay to the Plaintiff all such Costs as shall arise upon his Suit, to be taxed by the Justices of the Court before which the Action shall be brought.

Execution to
be levied on
Agents pro-
per Goods
and Estate in
Case,

And be it further enacted, That in Case any Attorney, Factor, Agent or Trustee, from and after the Time of his being served with Summons and Declaration as aforesaid against his Principal (being an absent or absconding Person) shall transfer, remit, dispose of or convert any of the Goods, Effects or Credits of such absent or absconding Person in his Hands at the Time of such Service, so that there shall not be sufficient to satisfy the Judgment (the Debt being afterwards ascertained by Judgment of Court) or that shall not discover, expose and subject the Goods, Effects or Credits of such absent or absconding Person in his Hands to be taken in Execution for or towards the Satisfaction of the Judgment so far as what were in his Hands at the Time of said Service will extend, shall be liable to satisfy the same of his own proper Goods and Estate, and as of his own Debt; and a Writ of *Scire Facias* may be taken out of the same Court and served upon him as the Law directs, to appear and shew Cause (if any he have) to the contrary, where upon Default of Appearance or Refusal to disclose upon his Oath (which Oath the Justices of such Court are empowered to administer) what Goods, Effects or Credits of the absent or absconding Person are in his Hands, and to what Value; then Judgment shall be entred up against him of his own proper Goods and Estate, and Execution be awarded accordingly.

Agent to be
put on Oath

Proviso.

Provided nevertheless, and be it enacted, That if it shall appear that the Attorney, Factor, Agent or Trustee so summoned as aforesaid, and having in his Hands at the Time of such Summons any Goods, Effects or Credits of the absent or absconding Person hath not any Ways remitted, disposed of or any Ways converted the same after the Summons being served on him as aforesaid; but that he hath discovered, exposed and subjected them to be taken in Execution to satisfy the Judgment recovered against the absent or absconding Person as aforesaid, then the Party who commenced the Suit shall pay such Attorney, Agent, Factor or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court from which the *Scire Facias* issued as aforesaid.

Agent to be
acquired and
discharged.

And be it further enacted, That the Goods, Effects or Credits of any absent or absconding Person so taken as aforesaid by Process and Judgment of Law out of the Hands of his Attorney, Factor, Agent, or Trustee, by any of his Creditors, shall fully acquit and forever discharge such Attorney, Factor, Agent or Trustee, his Executors or Administrators, of, from and against all Actions and Suits, Damages, Payments and Demands whatsoever, to be asked, commenced, had, claimed or brought by his Principal, his Executors or Administrators, of and for the same; and if any Attorney, Factor, Agent or Trustee, shall be molested, troubled or sued by his Principal for any Thing by him done in pursuance of this Act, he may plead the general Issue and give this Act in Evidence.

Proviso.

Provided nevertheless, That any absconding or absent Person against whom Judgment shall be recovered as aforesaid, shall be entitled to a Review of the same at any Time within three Years after such Recovery.

C H A P. III.

An Act to prevent a Multiplicity of Law-Suits.

Preamble:

WHEREAS of late it hath been the Practice of some of the Sheriffs, Under Sheriffs, or their Deputies, within this Province, to receive from some of the Justices of the Peace, and the Clerks of the Courts within the respective Counties, blank Writs, and then fill them up and serve them, and sometimes appear by Virtue of a Power of Attorney to pursue the same; which Practice has a Tendency very much to increase the Number of Law-Suits, and to a partial Administration of Justice;

For

Land Bank.

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For Remedy whereof :

Be it enacted by the Governour, Council and House of Representatives, That no Sheriff, Under-Sheriff, or Deputy-Sheriff within this Province, from and after the tenth Day of *February* 1759, shall presume to draw or fill up any Writ for any Matter or Thing whatsoever, triable before any of his Majesty's Justices of the Peace or Courts of Record within this Province, or be any Ways of Advice or Assistance therein, unless in Cases where he or they are concerned as Plaintiff; and in Case it appears to the Justice or Court to whom such Writ is returned, that any Writ was so drawn or filled up as aforesaid, such Justice or Court shall dismiss the same, and allow Costs for the Defendant.

No Sheriff &c to presume to fill any Writ or give Advice and Assistance except in certain Cases.

And be it further enacted, That no Appearance of any Sheriff his Under-Sheriff or Deputy, before any Justice of the Peace or Court of Record, by Virtue of a Power of Attorney, shall be allowed good to any Intent or Purpose whatsoever, in the County where he is an Officer, except where the Party giving the Power lives out of the Province, and in this Case his Appearance shall not be allowed if he filled the Writ.

No Sheriff &c: to appear as an Attorney &c.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston*, upon Wednesday the thirty-first Day of *May*, 1758. And continued by sundry Prorogations to Wednesday the twenty-eighth Day of *February* following, and then met.

C H A P. IV

An Act in further Addition to the several Laws now in Being for the more speedy finishing the Land Bank or Manufactory Scheme. 17 G. 2. ca. 3.

WHEREAS notwithstanding the several Laws made for bringing the Land Bank or Manufactory Scheme to a Conclusion, yet by Reason of the Death of some of the late Partners in said Scheme, the Insolvency of others, the Removal of divers of them out of the Province (after their having sold their Real Estates) the Difficulties that have occurred in making Sale of the Real Estates that have been taken in Execution, together with the last Assessment (which was lodged in the Secretary's Office) being rendered invalid, this Affair as yet Remains unsettled, to the great Damage of all concerned: And whereas an Account has been taken in Consequence of a Law passed at the Session of the General Court in March last, of all the Manufactory Bills outstanding (amounting to about Nine Hundred and ninety five Pounds in those Bills) to the End that an Assessment might be made for the drawing in said Bills forthwith, and thereby putting a Stop to the Interest growing thereon:

Preamble.

Be it therefore enacted by the Governour, Council and House of Representatives, That *Thomas Goldthwait*, and *Nathanael Hatch*, Esqrs; be Commissioners in the Room of *John Jeffries*, Esq; who has resigned, and of *John Chandler*, Esq; who declined Attendance on this Service soon after his Appointment to receive Commission from the Governour, and the said Commissioners with *Samuel Dinforth*, Esq; or any two of them, after the said *Thomas Goldthwait*, and *Nathanael Hatch*, have been duly sworn as the Law directs, shall by Virtue of this Act have as full Power in all Respects as the Commissioners, heretofore by Law appointed for adjusting and settling the Affairs of that Scheme were vested with, and they are hereby authorized and directed as soon as

Commissioners appointed in the Room of *John Jeffries* & *John Chandler*, Esqrs; and their Power.

C c c

may

may be, to make an Assessment of *Three Thousand Pounds* Lawful Money on such of those Persons mentioned in a List printed in the Supplement to the *Boston Gazette*, One Thousand seven Hundred and forty-five, as are now living within this Province, whom they shall judge of Ability as to Estate forthwith to pay what they shall be assessed, and to proportion the same among them as agreeable to the Rules heretofore observed by the Commissioners as may be, and the Assessment so made, the said Commissioners shall immediately after the making thereof cause to be published in the *Boston Weekly News-Papers*, that so every Person concerned may have the Knowledge thereof, and have Opportunity to pay the Sum assessed on them respectively, to the Commissioners; and if any Person so assessed shall neglect Payment for the Space of thirty Days next after the Publication thereof, the said Commissioners shall forthwith issue their Executions against such Delinquent and their Estates; which Execution shall be in the Form following, viz,

Province of the } *Esqrs;*
Massachusetts-Bay, } *Commissioners for the more speedy finishing the Land*
Bank or Manufactory Scheme.

To the Sheriff of the County of _____ his Under-Sheriff or
 Deputy. Greeting.

Form of the
 Execution.

W Hereas on the _____ Day of _____ an Assessment was made by us on divers of the late Directors and Partners in said Scheme, and afterwards published in the public News Papers in Boston agreeable to Law, since which more than thirty Days have elapsed, in which A. B. of _____ in the County of E. a late Partner in said Scheme was assessed the Sum of _____ as his Part or Proportion; and altho' public Notice has been given of said Assessment as aforesaid, yet the said A. B. has neglected to pay the same to us. You are therefore hereby required in his Majesty's Name, to levy of the Monies of the said A. B. the Sum of _____ or of his Goods and Chattels to the Value thereof, and pay the same to us within thirty Days coming, and for want of such Money or Goods and Chattels to the Value thereof (when sold at an Outcry) to be by him shewn unto you or found within your Precinct, you are hereby commanded to apprehend the Body of the said A. B. and him commit unto his Majesty's Goal in _____ and the Keeper thereof is hereby commanded to receive the said A. B. into the said Goal, and him safely keep until he shall pay the full Sum aforesaid, with your Fees. Hereof fail not, and make Return of this Precept with your Doings into our Office at Boston within thirty Days next coming. Given under our Hands and Seals at Boston, the _____ Day of _____ A. D. _____ and in the _____ Year of his Majesty's Reign.

Coroners &c.
 to levy Executions on
 Sheriffs &c.

And all Sheriffs, Under-Sheriffs and Deputies, and (where they are Interested) all Coroners, and where the Sum exceeds not *Ten Pounds*, all Constables are empowered to serve said Executions, being directed to them.

Commissioners when enabled to redeem Bills to give Notice.

And be it further enacted, That the said Commissioners or the major Part of them as soon as they are enabled to redeem said Bills, shall give Notice in the said Weekly News-Papers of the Time and Times in the Town of *Boston*, when and where they will attend to redeem them, which public Notice being inserted in all the Weekly News-Papers printed in *Boston* six Weeks successively, is hereby made and declared a legal Tender to all and every Possessor and Possessors of said Bills.

Commissioners empowered to call Sheriffs &c. to Account

And be it further enacted, That the said Commissioners be and they hereby are fully empowered to call to Account all Sheriffs, Deputy-Sheriffs, Coroners and Constables, who have received Warrants heretofore against any of the said Directors or Partners, and those of them who have been or shall be guilty of Negligence or Misfeasance, pursue in a Course of Law until final Issue in order to recover Damages (to which they are hereby declared liable) for their Negligence or Misfeasance:

And

And be it further enacted, That so soon as the aforesaid Bills shall have been redeemed, the said Commissioners shall proceed to make another Assessment as equitably as may be, as well upon such of the Partners who (having some Estate) may have been omitted in their former Assessment, as upon the Real Estate of all said Partners who are deceased or removed out of the Province, and conveyed away their said Estates contrary to an Act or Law of this Province made in the seventeenth Year of his present Majesty's Reign, Intituled *An Act for the more speedy finishing the Land Bank or Manufactory Scheme*, and to proportion the same in such Manner according to the Laws heretofore made relative to said Scheme, as that any Losses or Charges arisen or that may arise, may be born by the Persons concerned therein as equitably as may be, and shall give Notice thereof as in this Act is directed, relating to the other Assessment, to the End that the Tenants in Possession or others concerned may be duly apprized thereof, and may pay said Assessment; and if Neglect be made of Payment for the Space of thirty Days next after such Notice given, the said Commissioners are hereby authorized and impowered forthwith to sell so much of the said Real Estate which did belong to such delinquent Partner, as they shall judge sufficient to answer his said Assessment, and give sufficient Deed or Deeds therefor, first giving Notice of Time and Place of Sale thirty Days before-hand, and upon the executing such Deed or Deeds, it shall be lawful for the Vendee or Vendees immediately, and without other Process in the Law, to enter into the Estate so conveyed, and to hold the same, the Conveyance of any such Partner contrary to the said Act made in the seventeenth Year of his present Majesty's Reign, or the Possession of any such Tenant or Tenants notwithstanding, and Execution shall issue against the aforesaid Partners who have been omitted in their former Assessment in Manner and Form as is provided by this Act.

Bills redeem'd
the Commis-
sioners impow-
ered to make a
new Assess-
ment &c.

And whereas Endeavours have been used to discourage and prevent Persons (otherwise inclined to purchase) from bidding for Estates taken by Execution, and exposed to publick Sale :

Preamble:

Be it therefore further enacted, That where the Estate of any of the late Directors or Partners (taken by Warrants or Execution from the Commissioners) hath or shall be exposed to publick Sale, and could not be sold, or where the highest Sum bid as the purchase Consideration was or shall be but of trifling Value compared with the real Value of such Estate, in such Case it shall be lawful for the said Commissioners or such other Person or Persons as by Law are vested with Authority to dispose of such Estate, to convey the same by private Sale, where 'tis apprehended that said Estate may be so vended to better Advantage.

Directors or
Partners E-
states not sold
by public Sale
&c. may be o-
therwise dis-
posed of.

And be it further enacted, That the said Commissioners shall sit in the Town of Boston for the accomplishing those Affairs, as often as they shall judge necessary, and be paid for their Service what this Court shall judge reasonable; and if there shall be a Surplus in the Hands of the said Commissioners after redeeming said Bills, and paying all Losses and necessary Charges, the said Commissioners shall divide and pay the same equitably among the said Partners who shall have duly paid their said Assessments.

Commis-
sioners to sit in
the Town of
Boston.

And be it further enacted, That all Persons who shall purchase any of the Lands aforesaid from the said Commissioners or Sheriffs, shall be forever excluded and debar'd from bringing any Action or Actions against the said Commissioners or Sheriffs, upon the Account of any Disturbance which may happen to the said Purchasers or any of them, in their Possessions or Titles, from any Person or Persons whatsoever.

Persons pur-
chasing Lands
from Com-
missioners &c.
bar'd from
bringing Acti-
ons, &c.

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the thirtieth Day of *May*, 1759. And from thence continued by sundry Prorogations to Wednesday the second Day of *January* following, and then met.

C H A P. I.

An Act in further Addition to an Act Intituled *An Act for the Settlement and Support of Ministers and School-Masters.*

W. & M.
ca. 11.

Preamble.

WHEREAS in and by an Act made and passed in the fourth Year of the Reign of King William and Queen Mary, Intituled An Act for the Settlement and Support of Ministers and School-Masters, it is among other Things enacted, "That the Inhabitants of each Town within this Province shall take due Care from Time to Time to be provided of an Able, Learned, Orthodox Minister or Ministers of good Conversation to dispenſe the Word of God to them; which Minister or Ministers shall be suitably encouraged and sufficiently supported and maintained by the Inhabitants of such Town."

And whertas notwithstanding the Provision aforesaid, some Towns, Districts, Precincts or Parishes within this Province have chosen to and settled in the Work of the Ministry, ignorant and illiterate Persons, by Means whereof the validity of the Assessments made for the Support of such Persons has been disputed, and the Peace and good Order of such Towns, Districts, Precincts and Parishes, have been greatly disturbed:

For Prevention whereof for the future;

Towns &c.
not to be assessed towards the Support of illiterate Ministers, unless.

Be it enacted by the Governour, Council and House of Representatives, That it shall not be lawful for any Town, District, Precinct or Parish to assess the Inhabitants thereof for or towards the Support or Maintenance of any Person who shall be hereafter called to or settled in the Work of the Gospel Ministry in such Town, District, Precinct or Parish, unless such Person shall have been educated at some University, College or publick Academy for the Instruction of Youth in the learned Languages, and in the Arts and Sciences, or shall have received a Decree from some University, College, or such publick Academy, or shall have obtained Testimonials under the Hands of the major Part of the settled Ministers of the Gospel in the County where such Town, District, Precinct or Parish shall lie, that they apprehend him, the said Person being a Candidate for the Gospel Ministry, to be of sufficient Learning to qualify him for the Work of such Ministry; and all Assessments contrary to this Act shall be void and have no Effect.

Partition of Real Estates. Buildings in Boston. 387

An Act,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*; Begun and held at *Boston* upon Wednesday the thirtieth Day of *May* 1759. And from thence continued by sundry Prorogations to Wednesday the nineteenth of *March* following, and then met.

C H A P. II.

An Act for further Regulating the Partition of Real Estates.

WHEREAS the Justices of the Superiour Court in certain Cases, and the Judges of Probate in certain Cases, are by Law impowered to appoint five Freeholders to make Partition of Real Estates: And whereas it is found unnecessary for so great a Number to be appointed where the Estate to be divided is but of small Value: Preamble.

Be it therefore enacted by the Governour, Council and House of Representatives, That for the future it shall and may be lawful for the Justices of the Superiour Court and Judges of Probate respectively to appoint either three Freeholders or five to make Partition of Real Estates according to the Circumstances of the Estate to be divided, and as such Justices or Judges of Probate in their Discretion shall think proper. Justices of the Superior Court and Judges of Probate respectively to appoint Freeholders to make Partition of Real Estates.

And whereas it sometimes happens that the Estate to be divided, consists of such distinct Tenements, and under such peculiar Circumstances, as that an exact Partition thereof cannot be made to each of the Parties according to his Share in the whole Estate, without making such fractional Division of a Messuage Tract of Land or other Tenement as would be extremely prejudicial to the Interested therein:

For Prevention whereof:

Be it further enacted, That when any Messuage Tract of Land or other Tenement shall be of greater Value than either Party's Purpart or Share in the Estate to be divided, and cannot at the same Time be subdivided or Part thereof assigned to one and Part to another without great Inconvenience, the same may be settled on one of the Parties not being a Minor, he paying for owelty of Partition, or to make a just and equitable Partition, such Sum or Sums to such Party or Parties as by Means thereof have less than their Share of the Real Estate, as said Dividers shall award, and the Part so assigned shall stand charged for the Payment thereof. Where Lands &c. cannot be subdivided, may be settled on one of the Parties not being a Minor.

Acts and Laws,

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England*, Begun and held at *Boston* upon Wednesday the twenty-eighth Day of *May*, 1760.

C H A P. III.

An Act for the better Rebuilding that Part of the Town of Boston, which was laid Waste by the late Fire; and for preventing Fire in that Town for the future.

WHEREAS great Desolation hath been lately made by Fire in the Town of Boston, which hath been principally occasioned by the Narrowness of the Streets, and the Houses being built with Wood, and covered with Shingles: And whereas a Committee was appointed by the General Court in the last Session, for Regulating the Streets in that Preamble.

Part of the Town which was so laid Waste, and the Committee hath accordingly proceeded to lay out the Streets there; a Plan whereof hath been laid before this Court, and is now deposited in the Secretary's Office:

Streets confirmed.

Be it therefore enacted by the Lieutenant Governour, Council and House of Representatives, That the said Proceedings of the Committee, be and are hereby confirmed; and all Actions that shall be brought for recovering Possession of any Land lying within any of the Streets laid out as aforesaid, or for Damages sustained or occasioned thereby, shall be utterly and forever barred.

No Buildings to encroach thereon.

And be it further enacted, That no Building whatsoever be so erected as to encroach upon any Street by them laid out as aforesaid, and that every Building so erected be deemed a Nuisance, and be accordingly demolished by the Order of any two Justices of the Peace for the County of *Suffolk*, the Charges of such Demolition to be paid out of the Monies which shall be raised by the Sale of the Materials of such Building, which by the Order of said Justices shall be sold for that Purpose; unless the said Charges shall be immediately paid by the Owner.

Penalty for removing Boundary Marks.

And be it further enacted, That if any Person or Persons whatsoever shall wittingly or willingly, without good Authority, pluck up or remove any of the Stakes or Bound Marks, which have been or shall be fixed or set up by Order of said Committee to distinguish and ascertain the Streets aforesaid, and shall be thereof convicted before any two Justices of the Peace for the County of *Suffolk*, he or they shall for every such Offence be imprisoned by Order of such Justices for the Space of two Months, unless he or they shall forthwith pay or cause to be paid to the Treasurer of the Town of *Boston*, the Sum of *Three Pounds* for the Use of said Town.

And whereas some Persons may suffer Damage by the laying out of the Streets according to the Plan aforesaid, and others may receive Benefit and Advantage thereby:

Damages to be assessed by a Jury.

Be it further enacted, That *Samuel Danforth, Samuel Watts and Joseph Williams, Esqrs;* or any two of them, shall on or before the tenth Day of *July* next, summon a Jury of Twelve meet Persons (none of which to be Inhabitants of the Town of *Boston*) to view the Streets aforesaid, and the several Tenements or Lots of Land abutting thereon, and to estimate the Damages which any Person or Persons may sustain by Means of any Street's being laid out as aforesaid; and likewise the Benefit or Advantage that may accrue to any Person or Persons thereby; and whatever Damages any shall sustain according to such Estimation, shall be made good to the Party endamaged, either by such particular Person or Persons as shall be thereby benefited, or by the Town of *Boston*, or by both, in such Proportion as the said Jury shall find reasonable: And every Estate so bettered or advantaged as well as the Owner thereof, shall be subjected to make good the Sum assessed on Account of such Advantage. The Charge of the Jury as well as the Charge of laying out the Streets to be born and paid in the like Proportion by the Town or Person so benefited.

Certificate thereof to be returned to the Assessors.

And be it further enacted, That when the Jury aforesaid, shall have ascertained to the said Justices the Damages sustained by any Person or Persons by Means of the laying out any Street or Streets, as aforesaid, together with the several Sums to be paid by the Town or any particular Persons to make good such Damages and defray the Charges of laying out the Streets, of summoning the Jury, and of the Justices and Jurors attending on the Business assigned them respectively, the said Justices shall within six Days after the Jury's Report, give a Certificate thereof under their Hands to the Assessors of the Town of *Boston*; and those Assessors shall within two Months after the Receipt of such Certificate make an Assessment on the Inhabitants of the Town for such Sum as by the Jury's Report ought to be paid by the Town, and likewise on particular Persons for such Sum as by the Jury's Report ought to be paid by them respectively, and issue their Warrants to the Collectors requiring them to collect and pay the same within two Months into the Town-Treasury. And the Treasurer of said Town shall within three Months after the issuing of such Warrants, pay to the Person endamaged as aforesaid, the respective Sums assigned

Two new Counties.

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assigned them by the Jury's Report, in Satisfaction for the Damages by them sustained.

And be it further enacted, That where any Pump or Well of Water, by the laying out of any Street as aforesaid is taken into the Street, the same shall be kept in good Order at the Expence of the Persons dwelling near the same, or of the Town, or both, as shall be agreed between such Persons and the Select-Men of the Town; and in Case they cannot agree before the Sitting of the Court of General Sessions of the Peace, to be held within and for the County of *Suffolk*, on the first Tuesday of *October* next; then the Justices of the said Court may and shall determine by whom and in what Proportion the Charge of maintaining any such Pump or Well, and keeping the same in good Order shall be borne, unless the Town shall find it inconvenient for such Pump or Well to remain in the Street, in which Case the same shall be stop'd and filled up at the Charge of the Town.

Pumps or Wells falling within the Streets, how to be maintained.

And be it further enacted, That no House or other Building whatsoever of more than seven Feet in Height shall be erected in *Boston* otherwise than of Stone or Brick, and covered with Slate or Tiles, and that no House or other Building already erected, of any greater Dimensions than as aforesaid, shall be hereafter covered a new on the Top, any otherwise than with Slate or Tiles, on Penalty of *Fifty Pounds*, to be paid by the Owner of the same for the Use of the Poor of the said Town, to be recovered by an Action brought for the same by the Town Treasurer.

Buildings, of whas Materials to be erected.

And be it further enacted, That every Dwelling House which shall be built otherwise than by this Act is provided, shall be subjected to a yearly Tax of *Twenty Pounds*, and every Ware-house, Shop, Stable or Barn, to a yearly Tax of *Ten Pounds*, to be paid into the Town Treasury by the Occupier thereof, for the Use of the Town; and the Assessors shall accordingly add such Sum or Sums to the Town Tax of every such Occupant yearly over and above the Sum with which he would otherwise have been taxed, and shall particularly specify the same in the Tax Bill.

Penalty on Non observance.

Provided always, That it shall and may be lawful for any Person to build of Wood any Ware-house, Shop or Work House upon any Wharff where, in the Opinion of the Select-Men no solid Foundation can be had without great Expence; on Condition that the Sides of such Warehouse, Shop or Work-house be covered with Plaster, or Slate, and the Roof covered with Slate or Tiles; any Thing in this Act to the contrary notwithstanding.

Provido.

And whereas sundry Persons have heretofore inconsiderately erected Dwelling-Houses or other Buildings in a Manner contrary to the Provision of an Act made and passed in the fourth Year of the Reign of their late Majesties King William and Queen Mary, Intituled An Act for building with Stone or Brick in the Town of *Boston*, and preventing Fire:

Preamble.

Be it enacted, That every such Person be indemnified and saved harmless from any Prosecution for violating the Act aforesaid: *Provided*, That the House or other Building so erected by him, shall be covered with Slate or with Tiles within ten Years from the first Day of *June*, One Thousand seven Hundred and sixty.

Former Breaches of Law in what Case excused.

C H A P. IV.

An Act for erecting and establishing two new Counties in the Easterly Part of the County of *York*.

WHEREAS the great Extent of the County of *York* makes it convenient that two new Counties should be erected and established in the Easterly Part thereof:

Preamble.

Be it enacted by the Lieutenant Governour, Council and House of Representatives, That the County of *York* aforesaid shall be, and it hereby is declared

declared

Two new Counties.

County of
York how
bounded.

declared to be Bounded on the East by a Line to run from the Sea North-westerly upon the Easterly Line of the Township of *Biddeford* as far as *Narragansett* Number One; from thence North-easterly on said *Narragansett* to the Eastermost Corner thereof; from thence North-westerly on said *Narragansett* to the Northermost Corner thereof; from thence South-westerly on said *Narragansett* to *Saco-River*; from thence up said *Saco-River* as far as *Pearson-Town* extends thereon; and from thence to run North two Degrees West on a true Course as far as the utmost Northern Limits of this Province: All the other Boundary Lines of said County to remain the same as heretofore.

New County
of Cumberland
how bounded.

And be it further enacted, That the Westermost of the two new Counties aforesaid shall be, and it is hereby declared to be Bounded, on the West by the Easterly Line of the County of *York* above described; on the North by the utmost Northern Limits of this Province; on the Southeast by the Sea or Western Ocean, and by *Casco-Bay*; from the Easterly Point of which Bay, viz. from *Small-Point* the Line shall run North-westerly upon said *Casco-Bay* to *New-Meadows* Creek or River, and up said Creek or River as far as *Stevens* Carrying-Place at the Head of said Creek or River; thence a-crofs said Carrying-Place to *Merry-Meeting-Bay* and *Andros-coggin-River*; from thence it shall run up said *Andros-coggin-River* thirty Miles; and from thence North two Degrees West on a true Course to the utmost Northern Limits of this Province: Including all the Islands in *Casco Bay* aforesaid, and on the Sea Coast of the said new County. And all the Towns, Districts and Lands within said Bounds, together with the Islands aforesaid, shall from and after the first Day of *November*, One Thousand seven Hundred and sixty, be and remain one entire and distinct County by the Name of *Cumberland*, of which *Falmouth* shall be the Shire or County Town: And the Inhabitants of said County of *Cumberland* shall have, use, exercise and enjoy all such Powers, Priviledges and Immunities as by Law the Inhabitants of any other County within this Province have, use, exercise and enjoy.

Inferiour
Courts to
be held at
Falmouth.

And be it further enacted, That there shall be held and kept within the said County of *Cumberland*, a Court of General Sessions of the Peace, and an Inferiour Court of Common Pleas, to sit at *Falmouth* aforesaid on the first Tuesdays of *May* and *September* yearly, and in every Year until this Court shall otherwise order.

Superiour
Court to be
held at *Fal-*
mouth.

Also, that there shall be held and kept at *Falmouth* aforesaid until this Court shall otherwise order, a Superiour Court of Judicature, Court of Assize and General Goal Delivery, to sit on the fourth Tuesday of *June* yearly and every Year: And the Justices of the said Court of General Sessions of the Peace, Inferiour Court of Common Pleas, Superiour Court of Judicature, Court of Assize and General Goal Delivery respectively, who are or shall be thereunto lawfully Commissioned and Appointed, shall have, hold, use, exercise and enjoy all and singular the Powers which are by Law already given and granted unto them within any other County of this Province, where a Court of General Sessions of the Peace, Inferiour Court of Common Pleas, Superiour Court of Judicature, Court of Assize and General Goal Delivery are already established.

Justices of
the Court of
Sessions at
their first
Meeting to
appoint a
Register of
Deeds.

And be it further enacted, That the Justices of the Court of General Sessions of the Peace at their first Meeting in the said County of *Cumberland*, shall have full Power and Authority to appoint some fit Person within the said County of *Cumberland*, to be Register of Deeds and Conveyances within the same, who shall be sworn to the faithful Discharge of his Trust in the said Office, and shall continue to hold and exercise the same, according to the Directions of the Law, until some Person be elected by the Frecholders of the said County of *Cumberland*, who are hereby impowered to choose such Person at their first *March* Meeting within their respective Towns and Districts in the Method already by Law prescribed; Which Person taking upon him that Trust, shall be sworn to the faithful Discharge thereof: And until such Register shall be so appointed by the said Justices and sworn, all Deeds and Conveyances of Land lying within any Part of the said County of *Cumberland*, being recorded in the Register's Office

Two new Counties.

Office of the County of *York* aforesaid, shall be held good and valid to all Intents and Purposes, so far as relates to the Record of them.

And be it further enacted, That the Method and Proceedings directed to by Law, for the choosing a Register of Deeds and Conveyances, and a County Treasurer (which last mentioned Officer shall be chosen and appointed in Manner as the Law directs, at the next *March* Meeting of the Freeholders aforesaid) also for the bringing forward and trying any Actions, Causes, Pleas or Suits both Civil and Criminal in the several Counties of this Province, and Courts of Judicature within the same; and for choosing of Jurors to serve at the several Courts of Justice, shall be observed and put in Practice within the said County of *Cumberland*, and by the Courts of Justice within the same: Any Law, Usage or Custom to the contrary notwithstanding.

And be it further enacted, That the most Eastern County shall be bounded in the following Manner, *That is to say*, on the West by the County of *Cumberland* aforesaid; on the East by the Province of *Nova-Scotia*; on the South and Southeast by the Sea or Western Ocean; and on the North by the utmost Northern Limits of this Province; including all the Islands to the Eastward of the County of *Cumberland* aforesaid. And all the Towns, Districts and Lands within said Bounds, together with the Islands aforesaid, shall from and after the first Day of *November* One Thousand seven Hundred and sixty, be and remain one entire and distinct County by the Name of *Lincoln*, of which *Pownalborough* shall be the Shire or County Town: And the Inhabitants of the said County of *Lincoln* shall have, use, exercise and enjoy all such Powers, Privileges and Immunities as by Law the Inhabitants of any other County within this Province have, use, exercise and enjoy.

And be it further enacted, That there shall be held and kept within the said County of *Lincoln*, a Court of General Sessions of the Peace, and an Inferiour Court of Common Pleas, to sit at *Pownalborough* aforesaid on the second Tuesday of *May* and *September* yearly, and in every Year, until this Court shall otherwise order. And the Justices of the said Court of the General Sessions of the Peace, and of the said Inferiour Court of Common Pleas, who are or shall be thereunto lawfully Commissioned and Appointed, shall have, hold, use, exercise and enjoy all and singular the Powers which are by Law already given and granted to such Justices within any other County of this Province, where a Court of General Sessions of the Peace and Inferiour Court of Common Pleas are already established. And all Appeals from any Judgment or Judgments given at any Courts of General Sessions, and at any Inferiour Court of Common Pleas within the said County of *Lincoln*, shall be heard and tried at the Superior Court of Judicature to be held yearly at *Falmouth* as aforesaid.

And be it further enacted, That the Governour, with the Advice and Consent of his Majesty's Council, shall be authorized to appoint for and during the Term of five Years from *February* next, some fit Person within the County of *Lincoln* to be Register of Deeds and Conveyances within the same, who shall be sworn to the faithful Discharge of his Trust in said Office; and shall continue therein to the End of the Term aforesaid, and until some fit Person be chosen and appointed in his Stead by the Freeholders and other Inhabitants of the several Towns and Districts within the said County, qualified according to Law, to act in Town and County Affairs. And the said Register shall be sworn to the faithful Discharge of his Office in the Manner required by Law; and shall act in his said Office according to the Directions of the Law: And until a Register shall be appointed and sworn, all Deeds and Conveyances of Land lying in any Part of the said County of *Lincoln* being Recorded in the Register's Office in the County of *York* aforesaid, shall be held good and valid to all Intents and Purposes so far as relates to the Recording of the same.

And be it further enacted, That the Method and Proceedings directed to by Law for choosing a County Treasurer, also for the bringing forward and trying any Actions, Causes, Pleas or Suits both Civil and Criminal in the several Counties of this Province, and Courts of Judicature within the same, and for

choosing of Jurors to serve at the several Courts of Justice, shall be observed and put in Practice within the said County of *Lincoln*, and by the Courts of Justice within the same: Any Law, Usage or Custom to the contrary notwithstanding.

Matters cognizable in the County of *York*

And be it further enacted, That all Writs, Suits, Plaints, Processess, Appeals, Reviews and Recognizances, and any other Matters or Things which now are, or at any Time before the aforesaid first Day of *November* One Thousand seven Hundred and sixty, shall be depending in any Court within the County of *York*; and all Matters and Things which now are, or at any Time before the said first Day of *November* aforesaid, shall be depending before the Judge of Probate for the said County of *York*, shall be heard, tried, proceeded upon and determined at such Time and Place, and in such Manner as they would have been if this Act had not been made.

Deeds Registered in the County of *York*, before a Register is appointed, held good.

And be it further enacted, That nothing in this Act contained, shall be construed to disannul, defeat or make void any Deeds or Conveyances of Land, lying in either of the new Counties aforesaid, which are or shall be, before the Establishment of a Register in each County respectively Recorded in the Register's Office of the County of *York* aforesaid; but all such Deeds and Conveyances so Recorded shall be held as good and valid as they would have been in Case this Act had not been made.

County Taxes held good.

And be it further enacted, That the Inhabitants of the several Towns and Districts within the Counties aforesaid, shall pay their Proportion of all County Rates or Taxes already granted and made, in the same Manner as they would have done if this Act had not been made.

An Act,

Passed by the Great and General Court or Assembly of his Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1760. And from thence continued by Prorogations to Wednesday the seventeenth Day of *December* following, and then met.

C H A P. I.

An Act for Repealing the several Laws now in Force which relate to the Observation of the Lord's-Day, and for making more effectual Provision for the due Observation thereof.

Preamble.

WHEREAS, by Reason of different Construtions of the several Laws now in Force, relating to the Observation of the Lord's-Day, or Christian Sabbath, the said Laws have not been duly executed; and notwithstanding the pious Intention of the Legislators, the Lord's-Day hath been greatly and frequently profaned: Therefore,

Acts and Clauses of Acts relating to the Sabbath repealed.

Be it enacted by the Governor, Council and House of Representatives, That the several Laws, and the several Paragraphs and Clauses of all and every the Laws of this Province, enforcing, or any Ways relating to the due Observation of the Lord's-Day, so far as they relate thereto, be and hereby are repealed, and declared null and void.

Preamble.

And whereas it is the Duty of all Persons, upon the Lord's-Day, carefully to apply themselves, publickly and privately to Religion and Piety, the Profanation of the Lord's-Day is highly offensive to Almighty God; of evil Example, and tends to the Grief and Disturbance of all pious and religiously disposed Persons:

Therefore,

Lord's-Day.

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Therefore, that the Prophanation of the said Day may be fully prevented;

Be it further enacted, That no Person whatsoever shall keep open their Shops, Ware-Houses or Work-Houses, nor shall upon the Land or Water, do or exercise any Labour, Business or Work of their ordinary Calling, nor any Sport, Game, Play or Recreation, on the Lord's Day, or any Part thereof, (Works of Necessity and Charity only excepted) upon Pain that every Person so offending, shall forfeit and pay a Sum not exceeding *twenty Shillings*, nor less than *ten Shillings*. Business and Diversions prohibited on the Lord's Day—

And be it further enacted, That no Traveller, Drover, Horse-carrier, Waggoner, Butcher, Higler, or any of their Servants, shall travel on the Lord's-Day, or any Part thereof, except by some Adversity, they shall have been belated, and forced to lodge in the Woods, Wilderness or High-Ways the Night before, (and in such Case it shall be lawful to travel no further on the Lord's-Day, than to the next Inn or House for Entertainment of Travellers) upon the Penalty of a Sum not exceeding *twenty Shillings*, nor less than *ten Shillings*. Travelling prohibited.

And be it further enacted, That no Vintner, Retailer of strong Liquors, Innholder or other Person, keeping a House of publick Entertainment, shall entertain or suffer any of the Inhabitants of the respective Towns where they dwell, or others, not being Travellers, Strangers or Lodgers in such Houses, to abide or remain in their Houses, Yards, Orchards or Fields, drinking or spending their Time, either idly, at Play, or doing any secular Business, on the Lord's-Day, or any Part thereof, on Penalty of *ten Shillings*, payable by such Vintner, Innholder, or Person keeping such House of Entertainment, for each Person so entertained or suffered, and every Person so drinking or abiding, except as aforesaid, shall forfeit a Sum not exceeding *ten Shillings*, nor less than *five Shillings*; and every such licenced Person upon every Conviction after the first, shall forfeit *twenty Shillings*, and having been three Times convicted, shall be debarred renewing such his Licence ever after. Entertainment in public Houses prohibited.

And be it further enacted, That if any Person or Persons shall be recreating, disporting or unnecessarily walking or loitering, or if any Persons shall unnecessarily assemble themselves in any of the Streets, Lanes, Wharves, High-Ways, Commons, Fields, Pastures or Orchards of any Town or Place within this Province upon the Lord's-Day, or any Part thereof, every Person so offending shall forfeit and pay the Sum of *five Shillings*, and upon every Conviction after the first, shall be bound to their good Behaviour. Unnecessary walking &c. prohibited.

And be it further enacted, That if any Person being able of Body, and not otherwise necessarily prevented, shall for the space of one Month together absent themselves from the publick Worship of God on the Lord's-Day, they shall forfeit and pay the Sum of *ten Shillings*. Absence from publick Worship.

Provided always, That if upon Trial it shall appear that any Person so charged, had good and sufficient Excuse for their Absence, such Person shall be dismissed without Costs.

And be it further enacted, That no Sexton, Grave-digger, Porter or Bearer, shall be assisting at the Funeral of any Person on the Lord's-Day, or any Part thereof; and no Person shall toll any Bell for such Funeral, unless Licence be given by a Justice of Peace, and when in any Town or District where no Justice of the Peace dwells, such Licence be granted by one or more of the Select-men of the Town or District, on Penalty of *twenty Shillings*, to be paid by each and every Person so offending, and no Justice or Select-Men shall grant any Licence, except in Cases of Necessity only; and being in the Town of Boston, with this express Proviso, that such Person so buried be not carried to the Grave until one Hour after Sun-set. Funeral's regulated.

And whereas many Persons are of the Opinion, that the Sabbath or Time of religious Rest, begins on Saturday Evening; therefore to prevent all unnecessary Disturbance of Persons of such Opinion, as well as to encourage in all others, a due and seasonable Preparation for the religious Duties of the Lord's-Day:

Be

Business and
Diversions on
Saturday E-
vening.

Be it further enacted, That no Person shall keep open any Shop, Warehouse or Work-House, or hawk or sell any Provisions or Wares in the Streets or Lanes of any Town or District, or be present at any Concert of Musick, Dancing or other publick Diversion, on the Evening next preceeding the Lord's-Day, on Pain of forfeiting *ten Shillings*, for each Offence; and no Retailer, Innholder, or Person licenced to keep a publick House, shall entertain or suffer to remain, or be in their Houses, or Yards, or other Places appurtenant, any Person or Persons (Travellers, Strangers or Lodgers excepted) drinking or spending their Time on the said Evening, on Penalty of *ten Shillings*, for each Offence.

And in Order to the more effectual carrying this Act into Execution:

Wardens to
be appointed.

Be it further enacted, That each Town and District within this Province, shall at the Time of chusing Town and District Officers, annually and every Year chuse certain Persons, being of good Substance, and of sober Life and Conversation, to be Wardens of such Town or District, of which Officers the Town of *Boston* shall chuse twelve, *viz.* one for each Ward in said Town, and every other Town or District shall chuse any Number, not less than two, and not exceeding six; and all such Wardens shall be under Oath, faithfully to do the Duty of their Office, as required by Law; and if any Person or Persons shall refuse or neglect to take such Oath, and to serve in such Office, every such Person in the Town of *Boston*, shall be liable to the Penalty of *ten Pounds*; and in any other Town or District, to the Penalty of *five Pounds*; and every Town or District shall forthwith proceed to the Choice of other or others, in the Room of any Person or Persons so refusing or neglecting, and so *toties quoties*.

Penalty for
not serving.

And if any Person or Persons so refusing or neglecting, shall not pay to the Treasurer of such Town or District the Fine or Penalty aforesaid, he shall as soon as may be, be convened before the Court of Sessions for the County, and upon Certificate under the Hand of the Town Clerk, that such Person was legally chosen to the Office of Warden, unless some just Cause shall be made to appear to the said Court of Sessions, to excuse the Person so chose from serving, the Justices shall order a Warrant to be signed by the Clerk of the Peace, directed to any Constable or Constables of such Town or District, to levy the said Fine by Distress and Sale of such Offenders Goods, returning the Overplus, if any there be. And the Fine or Penalty so levied or paid, shall be delivered to the Overseers of the Poor, or Select-Men, for the Use of the Poor of such Town. And if the Town of *Boston*, shall neglect the due Observance of this Act, and shall not chuse in Manner as required, such Officers, the said Town shall incur the Penalty of *one Hundred Pounds*; and any other Town or District so neglecting, shall incur the Penalty of *Fifty Pounds*, upon every Conviction of such Neglect, before the Court of Sessions, for the County wherein such Town or District shall be, to be levied by Warrant from the said Court, in Proportion upon the Inhabitants as publick Charges are levied, and to be paid into the County Treasury.

Penalty on
Towns for
not choosing.

Wardens
Duty.

And be it further enacted, That the Persons so chosen and serving as Wardens, shall be held and obliged to enquire into, observe and inform of all Offences against this Act; and every such Warden is hereby authorized and empowered to enter into any of the Rooms and other Parts of any Inn or publick House of Entertainment, on the Lord's-Day and the Evening preceeding; and if such Entrance shall be refused to any Warden, the Landlord or the licenced Person shall forfeit the Sum of *forty Shillings*, for each and every Offence. And the said Wardens are hereby further authorized and empowered within their respective Towns or Districts, to examine all Persons suspected as unnecessarily travelling on the Lord's-Day, and to demand of all such Persons the Cause thereof, together with their Names, and Places of Abode; and if such Persons shall refuse to make Answer to such Demands, or shall not give Satisfaction to such Warden or Wardens, that they are then employed in travelling

Lord's-Day.

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velling upon his Majesty's Service, or in the immediate Service of this Government, or shall not give such other Reason for their travelling upon the Lord's-Day, as shall satisfy such Wardens of the Necessity thereof, such Wardens shall return the Names of all such Persons as they shall know or can obtain the Names of, to one of his Majesty's Justices of the Peace, and such Justice shall proceed to Trial of the Offence, if the Offender shall be within the County, or otherwise such Warden shall return the Names of such Persons, and the Offence, to the Grand-Jury, for their Consideration and Proceeding thereon. And if any Person shall wilfully give false Answer to any such Demands of any Warden, every Person so offending shall forfeit *five Pounds*, for each and every Offence. And any two Justices of the Peace, *Quorum Unus*, for any County where such Person shall be found, shall have full Power and Authority to enquire into, try and determine such Offence.

And be it further enacted, That the Wardens of the Town of *Boston*, Duty of Wardens in Boston. shall upon every Lord's-Day (except in Times of Rain, Snow, tempestuous Wind or extreme Cold) and in such Part and Parts of the Day as they shall judge most proper to prevent the Prophanation thereof, go through or inspect the Streets, Lanes, Wharves and other Parts of their respective Wards; and any one of said Wardens may likewise, as Occasion may require, inspect the Ward of any other Warden, and they are hereby authorized and impowered to demand the Names and Places of Abode of any Persons whom they shall suppose or suspect to be unnecessarily Abroad, and the Cause or Reason thereof: And if such Person or Persons shall not give a satisfactory Answer, such Warden or Wardens shall require them, or either of them forthwith to repair to their Places of Abode or Lodging; and if any Person shall refuse to give such Answer, or shall answer falsely, or shall refuse or neglect forthwith to repair, when required to such their Places of Abode or Lodging, and that by the usual and most direct Streets or Ways, the Warden shall upon the next Day, or as soon after as may be, make Information of such Offenders to one of his Majesty's Justices of the Peace for the County, and such Justice shall cause such Persons to be convened before him, and shall try and determine such Offence.

And be it further enacted, That the Oath of any Warden shall be deemed full and sufficient Evidence in any Trial for any Offence against this Act, Wardens Oath sufficient Evidence. unless in the Judgment of the Court or Justice, the same shall be invalidated by other Evidence that may be produced.

And be it further enacted, That no Person exempt from serving as a Privilege of Grand-Jury-Man. shall be liable to any Penalty for not serving as Warden, any Wardens. Thing in this Act to the contrary notwithstanding; and no Person shall be held and obliged to serve in the said Office of Warden more than once in five Years, and no Warden during the Year of Service shall be liable to any Military Duties, except in Case of an Alarm or Invasion, nor shall be liable to serve during such Time as Juror, or in any other Office of Burthen. And every Warden when in the Execution of his Office, shall carry with him a white Wand, not less than seven Feet in length, as a Badge of his Office, and may command Assistance when he shall judge it necessary; and any Person refusing or neglecting to be so aiding and assisting shall forfeit and pay the Sum of *forty Shillings*.

And be it further enacted, That the Parents of any Children under Parents and Age, and the Guardians of any Minors, and the Masters of Servants who shall Guardians liable for Fine. have no Parents nor Guardians, shall be respectively liable for the Fines of their Children, Wards or Servants, who shall be convicted of any Offence against this Act.

And be further enacted, That in Case any Person, that shall be convicted of prophaning the Lord's-Day or Christian Sabbath, in any of the Instances mentioned in this Act, shall not immediately pay the Sum or Sums by him forfeited as aforesaid, he shall be punished, by being committed to the common Goal Persons not paying Fines subject to Imprisonment. of the County there to remain not exceeding ten Days, nor less than five Days.

E e e

And

Other Civil
Officers to
take Notice of
Breaches of
this Act.

And be it further enacted, That notwithstanding the special Provision made by this Act for preventing the Breaches thereof, any Justice of Peace may upon Inspection, convict any Person, and such special Provision shall not be construed or understood, to exempt any Sheriffs, Grand-Jurers, Tithing-men, Constables or other Officers, or Persons whatsoever, from any Obligation or Duty, to cause this Act to be put in Execution, but they shall be held to take due Notice of, and prosecute all Breaches thereof, such special Provision notwithstanding.

Act to be read
at March
Meeting an-
nually.

And this Act shall be read in every Town and District by the Town or District Clerk, at the *March* Meeting every Year, and immediately before the Choice of Wardens; and any Town or District Clerk neglecting to read the same, shall forfeit the Sum of *twenty Shillings*.

An Act,

Note, This
Act was o-
mitted in it's
proper Place,
Page 146.

Passed by the Great and General Court or Assembly of her Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-sixth Day of *May*, 1703. And continued by Adjournment and Prorogations until Wednesday the twenty-seventh of *October* following, and then met.

C H A P. VI.

An Act Relating to Appeals from Judgments in Bar or Abatement.

All Pleas in
Bar or Abate-
ment to be
made origi-
nally in the
Inferiour
Court.

25 E it enacted by his Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same, That all Pleas in Bar or Abatement shall be made Originally in the Inferiour Court, in Suits there brought, and at the first bringing forward thereof, before any issuable Plea made. And when a Writ shall by Judgment of Court be bar'd or abated, and the Plaintiff or Demandant appeals from such Judgment to the Superiour Court of Judicature; if upon hearing the Appeal, the Superiour Court, notwithstanding the Pleas made in Bar or Abatement, adudge the Writ to be good and well brought, they shall reverse the Judgment of the Inferiour Court, and award to the Appellant his full Costs at both Courts: And the next Session of the Inferiour Court holden for the same County, shall proceed to Trial of the Merit of the Cause upon the same Writ, without any Delay, a new entry thereof being made.

Upon Réver-
sal of Judg-
ment in Bar
or Abatement,
the Cause to
be sent down
to the Inferi-
our Court.

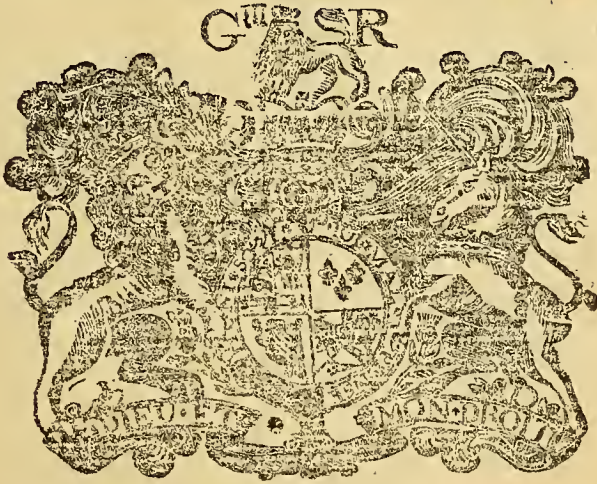
Goods, Estate
and Bail to
stand good.

The like Rule
for Appeals
from a Justice.

And all Goods and Estate Attached, and Sureties or Bail given, shall continue and be a like responsible in Manner as is by Law provided, to satisfy the principal Judgment upon such Trial, as if no intermediate Judgment had been rendered or given. And the same Rule and Method of proceeding to be observed in Appeals to be made from the Judgment in Bar or Abatement given by any Justice of the Peace, to the Inferiour Court of Common Pleas: Any Law, Usage or Custom to the contrary notwithstanding.

Saving.

Saving always, That in Suits wherein the Queen is concerned, upon the Superiour Court's Réversal of any Judgment given in Bar or Abatement, the said Court shall proceed to try the Cause.



An Act,

Passed by the Great and General Court or Assembly of his Majesty's Province of the *Massachusetts-Bay* in *New-England*: Begun and held at *Boston*, upon Wednesday the twenty-eighth Day of *May*, 1760. And continued by Prorogations until Wednesday the twenty-fifth of *March* following, and then met.

CHAP. II.

An Act in Addition to and for amending some Clauses in an Act made and passed in the last Session of this Court Intituled, *An Act for Repealing the several Laws in Force which relate to the Observation of the Lord's-Day, and for making more effectual Provision for the Observation thereof.*

WHEREAS in and by the said Act, the Wardens thereby directed to be chosen are authorized and impowered within their respective Towns and Districts to examine all Persons they shall suspect as unnecessarily travelling on the Lord's-Day, and to demand of all such Persons the Cause thereof; together with their Names and Places of Abode; but no Power is in said Act specially given to those Wardens to stop such travelling Persons in Order for such Examination; whereby the good Intent of that Act may be easily evaded, and such Examination rendered impracticable:

Wherefore,

Be it enacted by the Governor, Council and House of Representatives, That it shall be in the Power of each and every Warden, and Wardens that have already been chosen, or that may hereafter be chosen, in Consequence of said Act, either by himself or with such Assistance as he shall judge needful to take or call to his Aid, forcibly to stop and detain any Person or Persons he shall suspect of unnecessarily travelling as aforesaid, for and during such Space of Time as shall be necessary for demanding the Cause or Reason of such Person's travelling, his Name and Place of Abode, and receiving the Answers to such Demands; and every Person examined by any Warden or Wardens in Consequence of this or the foregoing Act, that shall refuse or neglect to give direct Answers, shall on Conviction of such his Refusal or Neglect forfeit and

Preamble:
Wardens im-
powered.

Penalty on
Offenders.

pay the Sum of *Five Pounds*, and may be prosecuted and tried in the same Manner as is already provided in said Act for giving a false Answer: And every Person who shall be required to Assist and give Aid to any Warden, that shall refuse or neglect so to do, shall for every such Offence forfeit and pay the Sum of *Forty Shillings*, unless such Person or Persons so refusing or neglecting, shall make reasonable Excuses to the Acceptance of the Court or Justice before whom they shall be tried.

Justices to try
in certain
Cases.

Disposal of
Fines.

And be it further enacted, That all Offences against this or the before mentioned Act, may be heard and determined before any of his Majesty's Justices of the Peace in their respective Counties, where the Fine does not exceed the Sum of *Forty Shillings*. All Fines and Forfeitures arising by this or by the before mentioned Act, and not therein otherwise disposed of, shall be applied towards the Support of the Poor in the Town or District where the Offence shall be committed.

CHAP. III.

An Act in Addition to an Act made and passed in the thirty third Year of his late Majesty King GEORGE the second, Intituled *An Act for erecting and establishing two new Counties in the Easterly Part of the County of York*.

Preamble.

WHEREAS in and by an Act made and passed in the thirty third Year of the Reign of his late Majesty King GEORGE the second, Intituled *An Act for erecting and establishing two new Counties in the Easterly Part of the County of York*; It is among other Things enacted and provided as follows, viz. That "all Appeals from any Judgment or Judgments given at any Court of General Sessions, and at any Inferior Court of Common Pleas within the said County of Lincoln, shall be heard and tried at the Superior Court of Judicature to be held yearly at Falmouth, as aforesaid." And whereas the said Provision is insufficient to give Jurisdiction to the said Superior Court held at Falmouth in other Matters and Things necessary to be tried and determined by said Court:

Superior
Court at Falmouth
to have
Jurisdiction in
certain Cases.

Be it therefore enacted by the Governor, Council and House of Representatives, That the Superior Court of Judicature Court of Assize and General Goal Delivery to be held at *Falmouth*, in and for the County of *Cumberland*, shall have from Time to Time, and at all Times hereafter, the same Jurisdiction Power and Authority for the Trial of all Actions Civil or Criminal, the Cause whereof has arisen or shall arise within the Body of the County of *Lincoln*, as also to hear and determine all other Matters and Things arisen or which shall arise within the Body of the said County of *Lincoln*, as the said Superior Court by Law would have, if the Cause of such Actions and such Matters and Things had arisen within the Body of the said County of *Cumberland*.

Jurors to be
summoned.

And be it further enacted, That the Grand-Jurors and Petit-Jurors serving at the Superior Court of Judicature, Court of Assize and General Goal Delivery, to be holden at *Falmouth*, shall from Time to Time be chosen and summoned, in such Manner as the Law directs, for the Choice and Summons of Grand and Petit-Jurors out of the several Towns within the said Counties of *Cumberland* and *Lincoln*.

Preamble.

And whereas the Select-Men of several Towns within the said Counties of *Cumberland* and *Lincoln*, may have neglected or omitted preparing a List of Persons liable to serve on the Petit-Jury, before the tenth Day of April 1760. in Manner as the Law directs:

Select-Men to
take Lists.

Be it therefore further enacted, That the Select-Men of every Town and District within the said Counties of *Cumberland* and *Lincoln*, so neglecting

or

County of Berkshire.

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or omitting, shall sometime in the Month of *April* this present Year, take a List of such Persons as are qualified and liable by Law within such Towns and Districts respectively, to serve on Petit-Juries, to be laid before such respective Towns and Districts sometime before the first Tuesday of *May* next following, at a publick Town-Meeting; and such Towns and Districts shall proceed to determine upon said Lists in like Manner as such Towns or Districts might and would have done by Law if such List had been prepared and presented before the said tenth Day of *April* 1760. Any Law, Usage or Custom to the contrary notwithstanding.

And be it further enacted, That the Justices of the Courts of General Sessions of the Peace for the aforesaid Counties of *Cumberland* and *Lincoln*, shall be and they hereby are impowered to grant Licences to and to take Recognizances from Innholders and Retailers of strong Drink within the respective Counties at the next Courts of General Sessions to be holden for such Counties respectively, such Licences to continue until the first Courts of General Sessions which shall be held and kept in Course for such Counties respectively next after the twenty ninth Day of *June*, which shall be in the Year 1762. Any Law, Usage or Custom to the contrary notwithstanding.

C H A P. IV.

An Act for dividing the County of *Hampshire*, and for erecting and establishing a new County in the Westerly Part of the County of *Hampshire*, to be called the County of *Berkshire*; and for establishing Courts of Justice within the same.

WHEREAS the great Extent of the County of *Hampshire*, makes it convenient and necessary, that there should be a new County erected and established in the Westerly Part thereof: Preamble.

Be it therefore enacted by the Governor, Council and House of Representatives, That the Towns and Plantations herein after mentioned, *That is to say, Sheffield, Stockbridge, Egremont, New-Marlbrough, Poontosuck, New-Framingham, West-Hoosuck, Number-One, Number-Three, and Number-Four*, and all other Lands included in the following Limits, *viz.* Beginning at the Western-Line of *Granvill*, where it touches *Connecticut*-Line, to run Northerly as far as said West Line of *Granvill* runs; thence Easterly to the South-West Corner of *Blandford*, and to run by the West-Line of the same Town, to the North-West Corner thereof; from thence Northerly in a direct Line to the South-East Corner of *Number-Four*, and so running by the Easterly Line of said *Number-Four*, to the North East Corner thereof; and thence in a direct Course to the South-West Corner of *Charlemont*, and so Northerly in the Course of the West Line of the same Town till it comes to the North Bound of the Province, and Northerly on the Line between this Province and the Province of *New-Hampshire*, Southerly on *Connecticut* Line, and on the West by the utmost Limits of this Province; shall from and after the thirtieth Day of *June*, One Thousand seven Hundred and sixty-one, be and remain one intire and distinct County by the Name of *Berkshire*, of which *Sheffield* for the present to be the County or Shire Town; and the said County to have, use and enjoy all such Powers, Priviledges and Immunities as by Law other Counties in this Province have and do enjoy. Lands comprised in the County of Berkshire.

And be it further enacted, That there shall be held and kept within the said County of *Berkshire*, yearly and in every Year, at the Times and Places in this Act hereafter expressed, a Court of General Sessions of the Peace, and an Inferiour Court of Common Pleas, *viz.* at the North Parish in *Sheffield*, on the last Tuesday of *April*, and first Tuesday of *September*; and at *Poontosuck*, on the first Inferiour Courts, &c: where and when to be held.

County of Berkshire.

first Tuesday of *December*, and the first Tuesday of *March*, yearly and in every Year until this Court shall otherwise order. And the Justices of the said Court of General Sessions of the Peace, and Inferiour Court of Common Pleas respectively, who are, or shall be thereunto lawfully commissioned and appointed, shall have, hold, use, exercise and enjoy all and singular the Powers which are by Law already given and granted unto them within any other Counties of the Province where a Court of General Sessions of the Peace, and Inferiour Court of Common Pleas are already established: And the Inhabitants of said County of *Berkshire*, shall have, use, exercise and enjoy all such Powers, Privileges and Immunities as by Law the Inhabitants of any other County within this Province, have, use, exercise and enjoy.

Saving.

Saving only, That all Appeals from any Judgment or Judgments given at any Court of General Sessions of the Peace, and at any Inferiour Court of Common Pleas within the said County of *Berkshire*, shall be heard and tried at the Superiour Court of Judicature, to be held yearly in the County of *Hampshire*.

Superiour
Court to be
held in
Hampshire.

And be it further enacted, That the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be held in and for the County of *Hampshire*, shall have from Time to Time, and at all Times hereafter until the further Order of this Court, the same Jurisdiction, Power and Authority for the Trial of all Actions, Civil or Criminal, the Cause whereof has arisen or shall arise within the Body of the County of *Berkshire*, as also to hear and determine all other Matters and Things arisen or which shall arise within the Body of the said County of *Berkshire*, as the said Superiour Court by Law would have if the Cause of such Actions and such Matters and Things had arisen within the Body of the County of *Hampshire*.

Jurors whence
to be taken.

And be it further enacted, That the Grand-Jurors and Petit-Jurors serving at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be holden within and for the County of *Hampshire*, shall from Time to Time be chosen and summoned in such Manner as the Law directs for the Choice and Summons of Grand and Petit-Jurors, out of the several Towns within the said Counties of *Hampshire*, and *Berkshire*.

Proviso.

Provided, That all Writs, Suits, Complaints, Processes, Appeals, Reviews, Recognizances or any other Matters and Things, which now are, or at any Time before the said thirtieth Day of *June*, shall be depending in the Law within any Part of the said County of *Berkshire*: And also all Matters and Things which now are, or at any Time before said thirtieth Day of *June*, shall be depending before the Judge of Probate within any Part of the said County of *Berkshire*, shall be heard, tried, proceeded upon and determined upon in the County of *Hampshire*, where the same are or shall be returnable or depending, or shall have Day or Days.

Proviso.

Provided also, That nothing in this Act contained, shall be construed to disannul, defeat or make void any Deeds or Conveyances of Lands lying in the said County of *Berkshire*, where the same are or shall be, before the said thirtieth Day of *June*, recorded in the Register's Office for the County of *Hampshire*; but that all such Deeds or Conveyances so recorded, shall be held good and valid as they would have been, had not this Act been made.

Register of
Deeds to be
appointed.

And be it further enacted, That the Justices of the Court of General Sessions of the Peace at their first Meeting in the said County of *Berkshire*, shall have full Power and Authority to appoint some meet Person within the said County of *Berkshire*, to be Register of Deeds and Conveyances within the same, who shall be sworn to the faithful Discharge of his Trust in the said Office; and shall continue to hold and exercise the same according to the Directions of the Law, until some Person be elected by the Freeholders of the said County of *Berkshire*, who are hereby impowered to choose such Person at their first *March* Meeting within their respective Towns and Districts, in the Method already by Law prescribed; which Person taking upon him that Trust, shall be sworn to the faithful Discharge thereof; and the Office of Register of Deeds shall

Regulation of Streets.

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shall be kept in the North Parish of *Sheffield* aforesaid; and until such Register shall be appointed by the said Justices and sworn, all Deeds and Conveyances of Lands lying within any Part of said County of *Berkshire*, being Recorded in the Register's Office in the County of *Hampshire* aforesaid, shall be held good and valid to all Intents and Purposes so far as relates to the Record of them.

And be it further enacted, That the Method and Proceedings directed to by Law for chusing a Register of Deeds and Conveyances, and the County Treasurer, (which last mentioned Officer shall be chosen and appointed in Manner as the Law directs, at the next *March* Meeting of the Freeholders aforesaid) also for the bringing forward and trying any Actions, Causes, Pleas or Suits, both Civil and Criminal, in the several Counties of this Province, and Courts of Judicature within the same, and for chusing Jurors to serve at the several Courts of Justice, shall be observed and put in Practice within the said County of *Berkshire*, and by the Courts of Justice within the same.

Rules for Proceedings as in other Cases.

Provided always, That the Inhabitants of the several Towns and Places herein before enumerated, and set off a distinct County, shall pay their Proportion to any County Rates or Taxes already made and granted, in the same Manner as they would have done had not this Act been made.

Proviso:

C H A P. V.

An Act in Addition to an Act made and passed in the thirty-third Year of the Reign of his Majesty King GEORGE the Second, Intituled *An Act for the better Regulating that Part of the Town of Boston, which was laid Waste by the late Fire, and for preventing Fire in that Town for the future.*

WHEREAS in and by an Act intituled, "*An Act for the better Regulating that Part of the Town of Boston, which was laid Waste by the late Fire, and for preventing Fire in that Town for the future.*" it is among other Things, enacted, That the Proceedings of the Committee (appointed by this Court for the Regulating the Streets in that Part of the Town which was so laid Waste) should be confirmed; but in as much as it is judged more Convenient, and less Expensive to the Town of Boston, That *Leverett's Street*, and *Purchase Street*, should be alter'd and laid out in Manner as hereafter is described:

Preamble:

Be it therefore enacted by his Excellency the Governor, Council and House of Representatives, That the Street that has been determined to be laid out between *Water-Street*, and *Milk-Street*, in the Direction of *Leverett-Street*, shall begin on the West Side at a Point on the Southerly Side of *Water-Street*, ranging with the Northerly End of Capt. *James Dalton's* House, at the Distance of fifty two Feet from the North-east Corner of said House, toward the East, and from said Point to run to *Milk-Street*, on a strait Line, so as that said Line being continued across *Milk-Street*, shall strike the North East Corner of Mr. *Wheelwright's* Brick House, now in the Occupation of *Benjamin Faneuil, Junr.* which last mentioned House is bounded Northerly on *Milk-Street*, and Easterly on *Atkinson-Street*; the East Side of said new Street to be parallel with the Line before described: And to be in all Parts thirty-five Feet distant therefrom. And as to *Purchase-Street*, (*viz.* The Northerly End thereof which opens into *Battery-March-Street*) it shall run as follows, *viz.* The Westerly Side of said *Purchase-Street*, to begin on the Southerly Side of *Battery-March-Street*, at a Point seventy Feet and three Inches distant from the North Easterly Corner of the Distill-House of *Jacob Wendell, Esq;* towards the East, and from said Point to run Southerly on a strait Line to the

Leverett-Street.

Purchase-Street.

Pittsfield a Town.

North Easterly Corner of *Alexander Hunt's* Dwelling-House, which is as far as the late great Fire extended in that Quarter; and the Easterly Side of said *Purchase-Street*, to be parallel with the Westerly Side at thirty Feet Distance. Any Thing in the aforesaid Act (made in the thirty-third Year of his late Majesty) to the contrary notwithstanding. And the Damages and Advantages that may accrue to any Person or Persons by laying said Streets as aforesaid, shall be estimated by the Jury impannelled for that Purpose agreeable to the Directions of the Act last mentioned.

Preamble. And whereas some of the Jury lately summoned for the Purposes in said Act mentioned, may be unavoidably absent; and it may be doubted, whether the Commissioners named in said Act are by Virtue of that Act authorized to fill up the said Jury: Now to Remedy that Inconvenience, and prevent any further Delay:

Commissioners to fill up the Jury. Be it further enacted, That when and so often as a Jury shall be summoned by *Samuel Danforth*, *Samuel Watts*, and *Joseph Williams*, Esqrs; (the Commissioners aforementioned) for the Purposes in said Act mentioned; and one or more of the said Jury shall be detained by Sickness, or otherwise unavoidably hindered attending upon the Business for which they were summoned, it shall be lawful for the said Commissioners or any two of them, to fill up and compleat the said Jury with other Persons, not being Inhabitants of the Town of *Boston*.

C H A P. VI.

An Act for erecting the new Plantation called *Pontoosuck* in the County of *Hampshire*, into a Town by the Name of *Pittsfield*.

Preamble. WHEREAS it hath been represented to this Court that the erecting the Plantation called *Pontoosuck* into a Township, will greatly contribute to the Growth thereof, and Remedy many Inconveniencies to which the Inhabitants and Proprietors may be otherwise subjected:

Bounds of the Town. Be it enacted by the Governor, Council and House of Representatives, That the Plantation aforesaid, bounded as follows, viz. North on *New-Framingham* so called, East partly on *Ashuelot-Equivalent*, and partly on Unappropriated Lands, South and West on Unappropriated Lands, be and hereby is erected into a Town, by the Name of *Pittsfield*: And that the Inhabitants thereof be and hereby are invested with all the Powers, Priviledges and Immunities which the Inhabitants of the Towns within this Province do enjoy. Saving, That the said Town shall not have Liberty to send a Representative to the General Court until the General Election in *May*, 1763.

Town Meeting to be warned. And be it further enacted, That *William Williams*, Esq; be and hereby is empowered to issue his Warrant directed to some principal Inhabitant in said Town, to notify and warn the Inhabitants in said Town qualified by Law to vote in Town Affairs, to meet at such Time and Place as shall be therein set forth, to chuse all such Officers as are or shall be required by Law to manage the Affairs of said Town.

Proviso. Provided nevertheless, That no Inhabitant of said Town or Proprietor in the same, excepting the Original Sixty settling Proprietors, or those who hold under them, shall be obliged to pay any Part or Proportion of the Charge towards building a Meeting-House, settling the first Minister, and the other Charges within said Town, which the said Original Proprietors were obliged to perform, either according to the Tenor of their Grant, or to any Agreements already made by or among themselves.

Assessments to be in full force. And be it further enacted, That all Assessments of Rates and Taxes agreed upon by said Original Proprietors shall be in full Force, and may be levied and collected in like Manner as if this Act had not been made.

C H A P. VII.

An Act to enable the Executors of the last Will and Testament of Sir *William Pepperrell*, Baronet, deceased; and the other Proprietors of certain Tracts of Land in the Township of *Biddeford*, and *Scarborough*, to sue for any Trespasses committed upon said Tracts of Land, within five Years preceeding the present Session of this Court, in the present County of *York*.

WHEREAS Sir William Pepperrell, Baronet, was in his Life-time and at the Time of his Decease, seized in Fee of divers Tracts of Land in the Townships of *Biddeford*, and *Scarborough*, and among others of a certain Tract commonly called the Upperchequer of Foxwell's-Patent, Part in Severalty, and Part in Common, and undivided with other Proprietors : And whereas it is alledged that there have been many Trespasses committed upon the Premises within a few Years past, and the County of *York*, has been lately divided into three Counties, and Part of the Premises may fall within the County of *Cumberland*, and many Difficulties are in the Way of prosecuting Suits for said alledged Trespasses, as the Law now stands ; and for some of them it may be impossible to obtain Justice without the Aid of a special Act of this Province : Preamble;

We it therefore enacted by the Governor, Council and House of Representatives, That any Action or Actions of Trespasses for any Trespass or Trespasses committed within five Years preceeding the present Session of this Court, upon any Tracts of Land in the Towns of *Biddeford*, and *Scarborough*, or either of them, whereof the said Sir *William Pepperrell*, was at the Time of his Decease seized in Severalty or in Common, and undivided with other Proprietors, shall and may be prosecuted and maintained in the present County of *York*, by the Executrix of the last Will and Testament of the said Sir *William Pepperrell*, or the Guardians to the Heirs or Devisees of the said Sir *William Pepperrell*, where he was seized in Severalty, or jointly by them with others, where he was seized in Common and Undivided, in the same Manner to all Intents and Purposes as if there had been no Division of the late County of *York*. Actions to be brought in the County of *York*.

B O S T O N : N. E.

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